



**ADVERTISING
STANDARDS
BUREAU**

Level 2, 97 Northbourne Avenue, Turner ACT 2612
Ph (02) 6173 1500 | Fax (02) 6262 9833
www.adstandards.com.au
ACN 084 452 666

Case Report

1	Case Number	0119/14
2	Advertiser	Yum Restaurants International
3	Product	Food / Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	23/04/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Gender

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement opens with various scenarios of groups of male friends, young and old sharing time together whilst engaging in outdoor recreation sports such as fishing and camping.

Two different groups of friends are also shown playing chess outside and eating burgers together on a couch.

During these images, the Advertisement voice over comments on the social phenomena of fleeting silences in the depicted social activities stating “The awkward silence. It's not awkward for guys, because we don't need to talk, with words.” These words are followed by a pause for five seconds before the voice over comments “Sorry girls. Did that freak you out?”

The Advertisement closes with two male friends spending time together whilst enjoyably eating The Mighty, on the couch. The voice over continues to describe the product “With an extra thick and juicy Zinger fillet. The Mighty, it's only two words” You can also hear the voices of the men's respective female partners in the background talking and enjoying time together.

THE COMPLAINT

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

Near the end of the ad the voice over something along the lines of "sorry if that was awkward ladies", suggesting that women talk a lot by nature and would be uncomfortable with the notion of silence. I just think that young males (and females) are ignorant enough as it is without the media adding to that ignorance. Young people think that women are "this" way and men are "this" way and it just isn't the case; some males talk more than females do. I see the negative effect that those stereotypes have on people who don't fit those stereotypes and it's not fair that a big corporation ads to it in such a blasé manner.

It implies that women or girls are unable to stop talking, and feel the need to fill in spaces with chatter. To quote the ad, "The awkward silence. It's not awkward for men, because they don't need to talk... Sorry girls, did that freak you out?"

Somewhat intentionally alienating and hurtful. Not to mention reinforcing damaging stereotypes.

THE ADVERTISER'S RESPONSE

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

There are two versions of the Advertisement: a 30 second version which features the particular line referred to by the Complainants. There is also a 15 second cut down version of the Advertisement which does not contain the particular line referred to by the Complainants, so it is not referred to in this response.

Has the Code been breached?

KFC considers that the Advertisement does not breach section 2.1 of the Code because the Advertisement does not portray or depict the material in a way which discriminates against, or vilifies people on the basis of sex, as alleged by the Complainants.

The Sex Discrimination Act 1984 (Cth) ("Act") in sections 5(1)-(2) defines sex discrimination as conduct which:

"(1) For the purposes of this Act, a person (in this subsection referred to as the discriminator) discriminates against another person (in this subsection referred to as the aggrieved person) on the ground of the sex of the aggrieved person if, by reason of:

(a) the sex of the aggrieved person;

(b) a characteristic that appertains generally to persons of the sex of the

aggrieved person; or

(c) a characteristic that is generally imputed to persons of the sex of the aggrieved person;

the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person of the opposite sex.

(2) For the purposes of this Act, a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the sex of the aggrieved person if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons of the same sex as the aggrieved person.

The above definition in the Act requires conduct by a discriminator that results in less favourable treatment through conditions, requirements or practices which are imposed, creating disadvantage to a person of the opposite sex.

KFC, in the Advertisement, and in contrast to the very serious and socially damaging conduct of discrimination, merely playfully comments on a social phenomenon of companionable silences that occurs between some groups of friends whilst engaging in certain activities. KFC certainly does not depict or suggest in any way that such conduct is male only behavior, or that the observed difference should result in women being discriminated against.

In order for the Advertisement to be described as vilifying women, the material would need to refer to women abusively and in a disparaging manner. Such references to women simply do not occur in the Advertisement. Furthermore a breach of section 2.1 of the Code may well be demonstrated by advertising material which breaches sections 2.2, 2.3 and 2.4 of the Code. As discussed below, KFC considers that there is simply no material that breaches these sections, and consequently considers that there can be no breach of section 2.1 of the Code.

KFC considers that the Advertisement does not breach section 2.2 of the Code because the Advertisement does not contain any material which depicts any sexual content. In support of this conclusion, the Advertising Standards Board, in its Determination Summary in relation to the use of sexual appeal states that “sexually appealing material would include images such as: a suggestion of sex; some nudity; a sexual pose; tight clothing”. The people in the Advertisement are all fully clothed and are sitting in companionably. There are no references to sexual activity or any sexualised material.

KFC considers that the Advertisement does not breach section 2.3 of the Code because the Advertisement does not contain any violence. In support of this conclusion, the Advertising Standards Board, in its Determination Summary provided a list containing many examples of the “phenomenon of “violence”” which includes “bullying, intimidating behaviour, depictions that condone or incite violence”. In contrast with this list, the images depict groups of friends sitting together in companionable silence.

As with KFC's response to the alleged breach of section 2.2 of the Code, the Advertisement does not contain any depictions of sex, sexuality or nudity amongst the groups of friends sharing outdoor activities or eating together. KFC therefore considers that the Advertisement does not breach section 2.4 of the Code.

KFC considers that the Advertisement does not breach section 2.5 of the Code because the Advertisement does not contain any strong or obscene language, and the Advertisement is to contrary; the voice over uses simple everyday speech and does not use a single swear word.

As with the above alleged breaches, KFC also considers that the Advertisement does not breach section 2.6 of the Code because it is not contrary to the Prevailing Community Standards which prevents gender roles or relations being portrayed negatively. KFC considers that the Prevailing Community Standards allows for playful observations of behavioural differences between the genders that may exist when engaging in certain activities.

KFC has chosen to show only three scenarios to demonstrate the social phenomenon of companionable silence and the Advertisement depicts images of men doing this together. The Advertisement only shows brief moments of the men's various social gatherings during which they are not talking. These fleeting images, however, do not represent the reality of these social gatherings in their entirety. It is safe to assume that the gatherings were only temporarily silent.

KFC does not suggest that men should conceal their emotions or thoughts from one another, rather the Advertisement represents some men as being comfortable during moments of companionable silence whilst engaging in certain activities.

The line 'Sorry girls, did that freak you out?' is heard after a few seconds of noticeable silence. These words are said with a slight chuckle and are addressing the awkward gap of silence that preceded it; they are addressed to females because the Advertisement depicts males being socially comfortable in silence in the depicted activities. The line poses a question only, and doesn't suggest that women could not also be happy partaking in similar situations or other contemplative activities, or that women should be treated any differently socially because of their gender, or because the women are overheard happily chatting to their friends in the background. No statements or assumptions are made about women, nor are any conclusions drawn about the female gender. The Advertisement is a harmless social observation which is intended to celebrate social differences that can occur between people in certain social situations, and the Advertisement is intended to provide a playful commentary on this.

KFC in no way condones discrimination or vilification against women, using women in its advertising in a sexualized way or using sexual or nude images of women. KFC considers

that this Advertisement falls well short of any such concerns which the Code is designed to address.

KFC trusts this response addresses the Complainants' concerns.

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 complainants' concern that the advertisement depicts men sitting in silence which is sexist.

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 this advertisement features scenes where men are shown able to enjoy one another's company without talking to one another.

The Board noted the complainants' concerns that the depiction of men not talking is a negative stereotype but considered that the men are portrayed in a manner which suggests that they are comfortable not talking and in the Board's view this is a positive depiction rather than a negative one.

The Board acknowledged that there is a stereotypical view that men don't talk much and that by contrast women talk too much. The Board considered that in this instance the stereotype is handled in a manner which is not degrading to men or to women but simply highlights a stereotypical gender trait (on both sides) in a humorous and not negative manner.

The Board considered that the advertisement does not depict material which discriminates or vilifies any section of the community on account of gender.

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.

