



ADVERTISING
STANDARDS
BUREAU

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Case Report

1	Case Number	0120/14
2	Advertiser	Mars Confectionery
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet
5	Date of Determination	23/04/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Occupation
- 2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

This internet advertisement opens on a building site. The text on screen reads, "What happens when builders aren't themselves?" and we see the builders calling out to women in the street with comments such as "have yourself a lovely day" and "that colour really works on you". The text on screen then reads, "You're not you when you're hungry" and we see a snickers bar.

THE COMPLAINT

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

- *Objectification of people. Women being called out to in the street in harassment style behaviour. Although the statements made were positive the ad then immediately turns around and goes back on these statements. As well as reinforcing stereotypes (all builders oppose feminism or respect women) it undermines the messages denouncing the objectification of women and gender equality.*
- *Social values - makes fun of the importance of gender equality and feminism. Portrays it in a way, I feel, is quite negative and harmful.*
- *Promotion of unsafe/dangerous behaviour.*

There were two main things that I'd object to, the first being the allusion that it is socially

acceptable and normal to cat-call women and harass them (which was implied when they say "you're not you when you're hungry.") and that treating women equally and respectfully is not the socially accepted thing to do. (Once again, their kindness was attributed to not being themselves.)

The second is the misrepresentation of an important part of our community - the builders themselves. This stereotypes all of them, making them out to be sexist and rude without any real depth. Their kindness being attributed to not being themselves is also a direct insult to them, implying that they're unable to be this way. In this I see the objectification of people, the promotion of unsafe behaviour and the disregard for social values. I find both misogyny and misandry in this.

THE ADVERTISER'S RESPONSE

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

In relation to the issue of whether legal advice has been obtained, the advertising agency's solicitors provided advice that they did not see the advertisement as attracting the operation of anti-discrimination or equal opportunity legislation.

In relation to the placement of the advertisement, we note that the content was not broadcast, but was only available online.

In terms of the AANA Code of Ethics, we contend that the advertisement does not promote discrimination against, or vilification of, women, or that it is exploitative or degrading of women. It certainly does not attract sections 2.3 – 2.6 of the Code of Ethics.

In relation to section 2.2 of the Code, the advertisement does not employ sexual appeal at all, let alone in a manner which is exploitative or degrading.

In relation to section 2.1 of the Code, there is no discrimination against women advocated by the advertisement or vilification of them. The general premise behind the broader campaign for the product "SNICKERS®" is that people act in unexpected ways when they are hungry. This broader campaign has depicted a range of people acting unexpectedly, due to hunger, in various advertisements worldwide. In this particular content piece, the tradesmen were played by actors performing a segment aimed at entertaining and surprising the viewer in a positive way. All passers-by that walked past the site were consulted by the production team to explain the concept, and it was ensured that none of them were in any way offended by the experience. The intention of the content was to demonstrate that construction workers can also act unexpectedly when they are hungry, and with the surprising, yet positive results.

We submit that there is no negative depiction of women, as the language and imagery used are positive, and do not create any negative impression. In relation to the construction workers, we note that occupation is not a criterion to which section 2.1 refers for the purposes of defining the concepts of "discrimination" and "vilification". In any event we

submit that the workers are not depicted in a negative light.

In relation to the particular complaints, we submit as follows:

In relation to the first complaint, we submit that the calling out was good natured and certainly did not constitute “harassment”. As regards the assertion that the content reinforces stereotypes, we submit that whilst the content draws upon a viewer’s pre-conception about construction workers, it light-heartedly makes the point that any type of person can behave in an unexpected way. We do not believe that it is appropriate to draw the inference that all construction workers are disrespectful of women, and we note that the AANA Practice Note provides that humour can be used without creating a negative stereotype. As regards the assertion that there is a promotion of unsafe/dangerous behaviour, we submit there is nothing in the content which shows the workers engaging in any unsafe conduct. And in fact, the location and the performers were part of an overall production process in which all safety issues were considered and complied with.

In relation to the second complaint’s assertion that the advertisement “promotes the harassment of women”, we again submit that neither the words delivered nor their method of delivery could reasonably be regarded as harassing the passers-by. We again note that in fact no participant was offended. On the question of whether the advertisement makes a joke of misogyny, the advertisement does form part of a broader campaign for the product in which a variety of people have been depicted as acting unexpectedly. We submit that almost all viewers would view the content in this context, and would realise that it was not aimed at promoting sexist or otherwise anti-social behaviour.

In relation to the third complaint, we again submit that the calling out and the content does not amount to harassment. We submit that the tone and the impact of the advertisement is not that behaving disrespectfully is a socially acceptable thing to do. We again refer to the broader context of the SNICKERS® campaign, and the light-hearted tone adopted. In relation to the second concern expressed in this complaint, we again submit that construction workers are not a “group” for the purposes of section 2.1. In any event, the workers are not objectified, but that rather a viewer’s preconceptions are drawn upon in the first instance and that the viewer will quickly understand the broader context of the overall campaign. In relation to the assertion of “unsafe behaviour” we would again submit that no unsafe conduct was engaged in during the production or was otherwise evident from the content.

We believe that no other sections of the Code have any application.

Thanks for your consideration of our response.

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’ concerns that the advertisement depicts a negative stereotype of builders as well as unsafe behaviour.

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 online advertisement features builders calling out positive statements to passing women before text appears on screen which reads, “you’re not you when you’re hungry”.

The Board noted the complainants’ concerns that the advertisement is discriminatory towards males and towards builders.

The Board noted that the comments the male builders call out to the women are positive and considered that the suggestion is that if the men weren’t hungry they would be calling out negative or sexist comments to the women.

The Board noted that there does exist in the community a stereotypical view of male builders who make unwelcome comments to women.

A minority of Board noted that whilst the comments made to the women are positive, the chant at the end of the advertisement about misogyny suggests that the normal default behaviour of these male builders would be to behave towards women in a manner which is not appropriate. The minority of the Board considered that the end of the advertisement, “You’re not you when you are hungry” strongly endorses sexist behaviour by men as being normal (with polite and respectful comments being abnormal) and condoned and reinforced a negative stereotype of male behaviour in a manner which was discriminatory.

Following considerable discussion however the majority of the Board considered that whilst the advertisement does play on this stereotypical view of male builders it does so in a light-hearted manner. The Board considered that whilst the advertisement shows how male builders could behave it does not explicitly state how the male builders would behave if they were not hungry.

The majority of the Board considered that in this instance the advertisement does not depict material which discriminates or vilifies any section of the community.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community

Standards on health and safety”.

The Board noted the complainants’ concerns that the advertisement depicts unsafe behaviour.

The Board noted that the advertisement features male builders on a building site and considered that the men all appear to be wearing the appropriate safety equipment and that they behave in a manner which does not appear to contravene safe working practices on a building site.

The Board considered that men calling out to women would be seen as potentially condoning violence against women but in this context all that is heard are positive comments to women who all took the comments in a light-hearted manner. In the Board’s view the advertisement does not condone or promote violence against women or harassment of women.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

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