



Case Report

1	Case Number	0131/17
2	Advertiser	Unilever Australasia
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	22/03/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows a bride getting prepared for her wedding. We see her having her hair and make-up done, and then we see the wedding congregation awaiting her arrival. The bride is shown walking down the aisle then her partner is revealed: another bride. The women are married by the officiate then we see them kiss while the congregation applaud. As the brides depart in the wedding car the onscreen text reads, "#PleasureIsDiverse" and we then cut to the Reception where we see one bride feed the other a Magnum.

THE COMPLAINT

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

Promotion of lesbianism during family viewing time. i know this will not be taken seriously as ramming this down our throats now happens daily.

THE ADVERTISER'S RESPONSE

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

We refer to your letter in relation to a complaint about a TV Commercial for Magnum ice cream (the “Advertisement”).

Unilever is a responsible advertiser and has numerous internal review processes, including review by Unilever’s Legal and Corporate Relations Departments to critique all advertisements to ensure compliance with legal and ethical considerations. Unilever takes the AANA Code of Ethics seriously and we have taken great care to ensure that the Advertisement complies with the Code of Ethics.

Unilever has broadcasted the Advertisement only once on Free TV (see details below). The length of the Advertisement is 90 seconds.

CAD Number: MGAU090079

Rating: C (General Unrestricted)

May be broadcast at any time, except during P (Preschool) programs.

The Advertisement

The Advertisement shows a beautiful woman in a white dress having make up applied to her face by a make-up artist. The TVC then cuts to a wedding ceremony showing female and male wedding guests in formal clothing. The woman exits a decorated limousine and walks into a beautiful building holding the arm of her father. It is now clear that her dress is a wedding dress. The guests get up and watch her walking down the aisle where another bride in a white wedding dress is waiting for her. The women look at each other and hold hands while the celebrant performs the wedding ceremony. Finally, the brides kiss and the wedding guests applaud. Smiling they walk down the aisle back to the limousine. While the couple is in the car the super “#PLEASUREISDIVERSE” appears. The TVC closes with the logo “MAGNUM for pleasure seekers”. During the TVC we hear a cover version of Bob Marley’s ‘Is This Love’.

The Complaint

Compliance with the AANA Codes

Section 2.1 of the Code of Ethics

Section 2.1 of the Code states “Advertising or Marketing Communications shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of [...] sexual preference. [...]”

The Advertisement shows a couple getting married in the presence of smiling and applauding wedding guests. The two brides are happy and excited to get married and, similar to heterosexual couples, react with a display of affection by kissing each other.

The wedding scene in the Advertisement including the freshly married couple kissing each other is in line with prevailing community standards which treat gender and sexual preference fairly, impartially and tolerantly.

The complainant may regard homosexuality and homosexual acts as being contrary to his/her religious or ethical beliefs. We refer to case 0026/15 about an advertisement that showed two kissing men. In this case the Board noted that, while some people may find this inappropriate, the kiss was fleeting and that in today's society it is not inappropriate to show gay intimacy particularly in an advertisement that is humorous and over-the-top.

The Advertisement, in particularly the wedding and kissing scene is not portrayed in a humorous over-the-top way but it was filmed in a cinematic way and shows a serious depiction of a wedding ceremony. It portrays the message for consumers that marriage is a bond between two people who love each other, irrespective of the sexual orientation of the partners. Consumers viewing the Advertisement are not being prejudiced or treated or portrayed unjustly or unfairly by the imagery in the wedding scene.

Unilever submits that the Advertisement including the kissing scene does not depict material in a way which discriminates or vilifies a person or a section of the community on account of sexual preference.

Section 2.4 of the Code of Ethics

Section 2.4 of the Code states: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

Unilever submits that that the wedding scene and the kiss are not sexually suggestive or inappropriate and treat the issue of sex and sexuality with sensitivity to the relevant audience.

We note that the Board has been considering complaints about advertisements depicting same sex kisses and has consistently found these kinds of advertisements to not breach the Code. In case report 259/02 the Board dismissed the complaint and stated: "[W]hile it might offend some individuals and particular groups, the advertisement portrayed a legal activity as might be witnessed in any public place."

Compared to the length of the Advertisement of 90 seconds the scene showing the two brides kissing is not overly long. The kiss is a celebration of the couple's marriage similar to kisses that can be witnessed at any wedding but it is not particularly passionate and does not lead to further kissing or intimacies.

The name of the product appears at the end of the Advertisement together with the words "#PLEASUREISDIVERSE" and "MAGNUM for pleasure seekers". Viewers will understand the message that while everyone, including same sex couples, can enjoy the pleasure of eating Magnum ice cream, same sex couples would also enjoy the pleasure of getting married.

The Advertisement was aired only once on Free TV on SAS-7 Adelaide during Weekend Sunrise on Saturday 26 February 2017 between 8.00am – 8.30am. In case report 181/00 in relation to an advertisement showing two women kissing that was aired at 8.55am on a Sunday morning the Board dismissed the complaint stating: "The Board was of the view that the portrayal of sex/sexuality/nudity within the advertisement was not inappropriate given the advertisement's rating and broadcast restriction to relevant time zones.

Conclusion

We submit that the context of the Advertisement and the language used are well within prevailing community standards and that the Advertisement complies with the Code of Ethics.

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 complainant’s concerns that the advertisement promotes lesbianism and is not appropriate.

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 two women getting married to each other: we see their preparations, wedding service, and the reception.

The Board noted that during the wedding service we see the women kiss. The Board acknowledged that some members of the community might be uncomfortable with images of women kissing women but considered that the depiction of kissing in the advertisement is brief and not sexualised or shown to lead to further intimacy. Consistent with a previous determination about an advertisement featuring same sex kissing (0062/16) the Board considered that in the context of an advertisement featuring a wedding it is not gratuitous or inappropriate to show the wedding being sealed with a kiss.

The Board noted the complainant’s concern that the advertisement promotes lesbianism. The Board noted that advertisers are free to use whomever they wish in their advertising and considered that a depiction of a same sex couple is not of itself a breach of the Code. The Board noted that the tagline of the advertisement is ‘pleasure is diverse’ and considered that this relates to both the choice of the women to get married and to their choice in the Magnum ice cream one of the woman is shown being fed by the other women. The Board noted that the advertisement depicts a same sex marriage which is not currently legal in Australia but considered that it is not the Board’s role to say whether a particular issue or scenario can or should be depicted in an advertisement.

The Board noted that the advertisement had been rated ‘C’ by CAD which means it can be aired any time except during Preschool programs and considered that the content of the advertisement was not inappropriate for the relevant broad audience which would include children.

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.

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

dismissed the complaint.