



Case Report

1	Case Number	0161/14
2	Advertiser	Lion
3	Product	Alcohol
4	Type of Advertisement / media	TV
5	Date of Determination	14/05/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Social Values
- 2.1 - Discrimination or Vilification Gender
- 2.3 - Violence Violence

DESCRIPTION OF THE ADVERTISEMENT

The television Advertisement begins in a house where a male (Mike) is seen entering the kitchen in a hurry. His mouth jumps off his face and onto the kitchen bench in front of him, Mike's mouth is now completely separate from him.

'The Mouth' then begins to confront Mike about a supposed lie he has made him tell. The scene then flashes back to Mike whispering into a woman's ear and mouthing the words 'I love you'.

Once the flashback sequence finishes, we see The Mouth on the kitchen bench step forward and ask Mike to give him something back as repayment for what he's put him (The Mouth) through.

At this point we cut and see Mike's hand reach into a bath of ice to pull out a bottle of Tooheys Extra Dry. We then see Mike, with his mouth now back on his face, take a sip of the Clean Crisp Taste of the Tooheys Extra Dry and afterwards The Mouth thanks Mike for repaying him. The Mouth protrudes out a bit to do this, but remains on Mike's face.

The Advertisement ends with a frame showing a pack shot of Tooheys Extra Dry with the words 'Repay Your Mouth with the Clean Crisp Taste' on screen.

THE COMPLAINT

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

This ad is horrendously sexist, I'd think even a lot of men would be offended by the suggestion that this advertising campaign would appeal to them, even my boyfriend finds it disgusting. The notion that lying to a woman about loving her is a joke is offensive, it is also implied that this is a burden for men. It plays into the disgusting idea that by telling a woman that you love her when you don't you'll be able to fool her into some kind of sexual encounter. This is a pretty unnecessary and bizarre message to include in any advertisement, they've literally gone out of their way to make a sexist and offensive advertisement - I guess thinking that bigotry would appeal to their target audience? Which is also insulting.

THE ADVERTISER'S RESPONSE

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

Lion does not consider that the Advertisement breaches any section of the AANA Code of Ethics or any other relevant Advertising Code.

As noted in further detail below:

(i) Lion takes its advertising responsibilities extremely seriously and has a strong compliance track record in this regard; and

(ii) Lion has a number of strict internal and external processes against which any proposed advertisement is considered;

(iii) The Advertisement was put through each of these processes prior to Lion's decision to broadcast it.

The Complaint references Sections 2.1 and 2.3 of the AANA Code of Ethics, which outlines that advertising and marketing communications:

? 2.1 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 race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief;

? 2.3 Shall not present or portray violence unless it is justifiable in the context of the product or service advertised;

We will address each of these sections in turn.

a) Does the Advertisement 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

The Complainant raises issue with the portrayal of both men and women in the Advertisement, and raises assumptions about the meaning and context of the scenes depicted. In Lion's view there is no component of the Advertisement which may be considered to depict behaviors in relation to gender which are restricted by Section 2.1 of the AANA Code of Ethics. The AANA Code of Ethics Practice Note ("Practice Note") details that types of behaviour that portray discrimination or vilification of people based on gender may not be appropriate. Vilification and discrimination are elaborated to mean:

Discrimination – unfair or less favorable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule

With regard to the gender depiction in this Advertisement, there is not enough interaction shown in the two second scene between Mike and the unknown female to give any indicators to their relationship – the viewer does not see either person's facial expressions, their surroundings, or have any history or background to their relationship. Without this information it is unreasonable to draw conclusions that discrimination or vilification is

present generally or based on gender.

The nature of the advertisement leaves it up to the viewer to interpret the roles of the characters and how they perceive the “I love you” said by Mike to the female character - gender is irrelevant to this consideration.

Overall, there are no indicators to the presence of any discrimination or vilification of either Mike or the unknown female, which is additionally supported by the humorous and light hearted tone of the Advertisement.

Finally, it is important to note that the major focus of this advertisement is on the product, not the flash back scene, which lasts for approximately two seconds, and serves only to highlight the taste attributes of Tooheys Extra Dry in a humorous way.

b) Does the Advertisement present or portray violence unless it is justifiable in the context of the product or service advertised

The AANA Code of Ethics Practice Note (“Practice Note”) provides the following examples of violence which may not be justifiable:

Sexual violence.

Strong suggestion of menace.

Audio representations of violence may be prohibited.

Violence against animals.

Realistic depictions of the consequences of violence are not acceptable, for example, showing a woman’s bloodied face may not be acceptable.

Lion is of the view that the Advertisement does not represent any of those examples provided by the Practice Note or violence generally if a wider interpretation is taken.

Lion also notes the Practice Note provides that more leeway is permitted when assessing an advertisement where the depiction is stylised rather than realistic. Lion is of the view the overall events in the Advertisement are stylised in a way that presents them as fantasy rather than real-life possibilities in the eyes of a general member of the target audience.

For story-telling purposes it is also vital that the Mouth is shown to jump off the Man’s face so that the audience can clearly see the two characters having a conversation. Every effort has been taken to ensure that this action is shown in a way that is in no way violent, including not showing the mouth actually leaving the face.

The depiction of the Mouth as its own character in the Advertisement is entirely relevant to promoting the product and the core brand message as the sense of ‘taste’ lies within the mouth and this style of promotion is in line with market standards.

Lion’s view is that this does not represent violence in any way or contravene prevailing community standards.

Lion’s Commitment to the ASB and ABAC

As a responsible advertiser, Lion has demonstrated a long-standing commitment to supporting and adhering to the Advertising Standards Bureau (ASB) and Alcohol Beverages Advertising Code (ABAC).

In acknowledgment of Lion’s position of support for ASB and ABAC, Lion maintains strict internal and external processes. As well as upholding the standards outlined within these advertising codes, Lion maintains internal best practices which often exceed these requirements.

As part of Lion’s marketing approvals process, this television advertisement for Tooheys Extra Dry was subject to:

Review and advice from external creative agencies well-versed and experienced with ASB and ABAC requirements.

Independent legal review and advice from an external legal team specialising in FMCG marketing and advertising compliance and interpreting the relevant advertising codes and

legislation.

Review by Lion's internal marketing compliance team to ensure it's adherence to Lion's internal best practice policies.

Review and approval through the AAPs pre-vetting service at both concept and final stages to ensure its compliance with community standards and relevant advertising codes.

I can confirm that each of the above requirements was complied with in relation to the Advertisement prior to its broadcast.

We also do not believe that any other section of the Code has been breached in the above mentioned advertisement.

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 is distasteful, sexist and offensive suggesting that a man can tell a woman he loves her in return for sex.

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

The Board noted that the complainant was concerned that the advertisement was distasteful and considered that as taste is not an issue under Section 2 of the AANA Code of Ethics the Board cannot consider this aspect of the complaint.

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 a man whispering to a woman that he loves her and then his mouth leaves his face and speaks to him, telling him it deserves a reward for all the lies he has made his mouth say eg: telling her he loves her. The text appears on screen "Repay your mouth with the clean crisp taste" and an image of an Extra Dry bottle.

The Board noted that the advertisement had been rated 'L' by CAD.

The Board noted the complainants' concerns that the depiction of a man lying to a woman by telling her he loves her when he does not is offensive. The Board noted the complainants concerns that the purpose of the lie is to fool the woman into a sexual encounter.

The Board noted that the issue of lying in this manner is not encouraged, however it is not an issue under Section 2 of the Code. The Board noted that it is not clear that the man lures the woman into a sexual encounter by lying to her and that it does not amount to material that discriminates against or vilifies a person or section of the community on account of....gender.. and that it did not breach section 2.1 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that it had previously considered a similar advertisement for Lion (ref: 0398/13) where the mouth leaves the man's face. The Board noted in this case that "while some members of the community may find the depiction of the mouth repulsive and visually

offensive, it is not an image which is suggestive of violence.”

The Board noted the overall theme of the advertisement of rewarding your mouth and considered that in this context the depiction of the mouth leaving a man’s face is not a depiction that portrays violence, but is adding emphasis to the idea of rewarding your mouth as if it is a separate entity to the rest of your body. Based on the above the Board considered that the advertisement did not present or portray violence and did not breach Section 2.3 of the Code.

The Board considered the issue of alcohol consumption and whether the advertisement encourages excessive alcohol consumption. The Board noted that whilst the advertisement encourages consumers to reward their mouths it does not suggest that you should drink excessive amounts of alcohol. The Board considered that the most likely interpretation of the advertisement is that if you want to reward your mouth with a drink you should choose the advertised product. The Board considered that the advertisement did not depict, encourage or condone excess alcohol consumption.

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