



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0167-21
2. Advertiser :	Subway Franchisee Advertising Fund
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	23-Jun-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

There are three versions of this television advertisement which feature people pressing their hands and faces to the glass front watching their food being prepared.

THE COMPLAINT

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

With the current covid pandemic I feel it is inappropriate that the ad shows the customer pressing their face against the glass case while the food is being prepared. The COVIDSafe messages remind us all about hygiene and this ad could encourage people to act inappropriately whilst in the venue

Covid restrictions and hygiene are not being followed.

My objection is that we are fighting a disease (covid) and yet these people are licking a glass display cabinet which the next person could touch and catch covid. Aside from that it is a revolting habit that we would not even let a child do.

The add shows the man with his face , mouth and nose pressed up to what appears to be the glass partition within the store where the food is prepared even without the current covid outbreaks I feel this is not showing a hygienic situation



Thinking of COVID 19. the ad shows a man in one ad and a lady in another wiping their face and nose and open mouth over the cabinet with their food in it, I thing this is totally inappropriate for current times espically on Subways website it say " Addressing coronavirus and helping to protect the health and safety of our community. Learn how we are doing our part to keep sandwich artists and our community safe"

THE ADVERTISER'S RESPONSE

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

Thank you for providing Subway® with the opportunity to respond to complaint reference: 0167-21. Subway® stringently opposes any characterisation that its Love Songs advertisement suggests actions contrary to Covid-19 community standards on health and safety.

Subway® is well established as a made-to-order fresh and healthier alternative to traditional fast food and the brand is universally known for its consumer-facing food preparation. The Subway® Love Songs advertisement is designed to highlight that for consumers, having your favourite meal prepared in front of your eyes is a euphoric experience that can only be dreamt of at other food businesses.

Subway® Love Songs and compliance with AANA Code of Ethics Section 2.6 Prevailing Community Standards

Subway® argues the Love Songs advertisements complies with Section 2.6 of the Code of Ethics, as it depicts exaggerated and fantastical behaviour intended to reflect the dreams of every food lover, but one they would never act upon, especially in a post-Covid world. The advertisements in question were reviewed by ClearAds, with approval numbers including: W8WT0FSA, W8WT1FSA and W8WT2FSA.

We believe that our credentials on health and safety are well-established with audiences. The brand's pre-Covid and Covid-response measures, have been previously highlighted in a national marketing campaign. With this established audience knowledge, Subway® believes it is possible to tap into this fantastical situation, without fear that this was seen as realistic by the audience.

The advertisements deliberately play into the exaggerated behaviour which we believe every food-lover wishes secretly wishes they could enact but never would, due to social propriety. The music and lighting treatment, superimposed food and lack of other customers appearing in the ad are designed to represent a dream-state: an exaggerated, fantastical and unrealistic experience.

We note that the complaints received have referenced the advertisements in relation to health and safety in the current Covid-19 pandemic. We argue that the exaggerated behaviour shown in the advertisement would not be considered acceptable under pre-



Covid health requirements, let alone a post-Covid world, and audiences understand this. Subway® also considers that children would be unable to imitate this behaviour, given the design of our restaurants. Subway® restaurants' sandwich units are purposely designed to be above child-height, with a ledge or lip preventing people from leaning against them and putting them out of reach of children.

While Subway® acknowledges that community expectations of health and safety have shifted during the pandemic, we believe this only makes the behaviour appear less realistic and more fantastical. Subway® also notes that in the near month-long period that these advertisements have been aired, there have been no reported instances of copycat behaviour in-restaurant.

While the Love Songs advertisements are designed to portray exaggerated and fantastical behaviour, we do not believe there is a failure to meet prevailing community standards for health and safety.

Thank you again for the opportunity to provide a response to this complaint.

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether the advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement is promoting poor behaviour and failure to follow health recommendations which is disappointing and sends a poor message during this time of COVID-19.

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

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted that there are three versions of this advertisement, all featuring people watching food preparation. In each of the advertisements the people are shown with their hands and faces pressed up against the glass between them and where their food is being prepared.

The Panel noted that due to the COVID-19 pandemic there has been an increase in concern in the media and in the community about hygiene.

The Panel considered that while current recommendations on hygiene measures during the COVID19 pandemic are important, the Panel has taken the view that a degree of regulatory pragmatism is needed when evaluating advertisements at this time. The Panel noted that there is no suggestion in the advertisement that hygiene measures are unimportant, or a depiction that trivialises the COVID-19 pandemic.



The Panel considered that people in all three versions of the advertisement are shown to be acting in an exaggerated and unrealistic manner, to promote the product in a humorous way.

The Panel considered that the fantastical and humorous nature of the advertisement meant that the actions of the people within the advertisement would not be taken seriously by most members of the community, and would be unlikely to lead to the behaviour being copied.

The Panel considered that most members of the community would not consider the advertisement to be realistically portraying material which would be against Prevailing Community Standards on health and safety, nor to be promoting behaviour contrary to Covid-safe advice, rules or practices.

Section 2.6 conclusion

The Panel considered that the advertisement did not contain material which would be contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion

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