



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0200/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Coca-Cola South Pacific</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>26/06/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.4 - Sex/sexuality/nudity S/S/N - nudity

### DESCRIPTION OF THE ADVERTISEMENT

A group of young professional women are sitting on a grass hill enjoying a picnic lunch. They roll a can of 'diet Coke' down the hill towards a gardener mowing the lawn. He opens the can, which spills over his shirt. He then removes his shirt and continues mowing the lawn, with a cheeky glance back at his audience.

The iconic soundtrack that has featured in 4 different 'diet Coke' 'Hunk' adverts, Etta James' 'I Just Want To Make Love To You' plays in the background throughout.

### THE COMPLAINT

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

*Imagine if the gender roles in the ad were reversed - and a "pack" of men were sitting around perving on a woman. I'm pretty sure this would not be tolerated.  
The ad is offensive and derogative to men.*

### THE ADVERTISER'S RESPONSE

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

*We take our obligations in relation to responsible advertising seriously and we are happy to address this single complaint. We understand from your letter regarding the complaint and the complaint itself, that the complainant believes the advertisement contravenes section 2 of the AANA Advertiser Code of Ethics; specifically sections 2.1 – Discrimination or Vilification based on Gender and 2.4 - Sex/sexuality/nudity S/S/N – general.*

*The intent of our advertisement is to celebrate 30 years of ‘diet Coke’ in Australia and to reignite love for the iconic ‘diet Coke’ break. In no way is the objective of the advertisement to offend, discriminate against or vilify any person or section of the community on account of gender, be it male or female, age or sexual preference. The advertisement also treats any concepts of sex, sexuality and nudity contained in it with sensitivity to its adult female target audience.*

*We are presenting a 21st century take on the revolutionary ‘diet Coke’ ads of the early ‘90s. We sought to harness the powerful recall of the original soundtrack and a moment of shared camaraderie, in the minds of ‘diet Coke’ drinkers. We have commented below on each of the specific provisions within the code in relation to this complaint:*

*Provision 2.1 of the Code states: “Advertising or Marketing Communications 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.”*

*Neither the man nor the women are treating the other in a predatory, derogatory or demeaning manner. At the end of the advert you are left with the overall impression that there has been a playful interaction on both sides of the gender divide. If anything, the man is seen to walk away with the upper hand; having turned the girls joke on them, using his cheeky sense of fun to leave a positive impression. He is proud of his physique and happy to be given an opportunity to show it off.*

*Section 2.2 of the Code requires that “Advertising or Marketing Communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”*

*We have sought to foster a light hearted and humorous tone, presenting an amusing scenario that focuses on the role of the product, the ‘diet Coke’ can, as a way of connecting people. It portrays a stereo-typical cultural behaviour; a group of female friends getting together for a catch up at lunch. However, this act of female solidarity does not exclude the male gardener or the male viewer from the humorous flirtatious interaction that transpires.*

*The soundtrack is not intended to give the advert a sexual tone, but to play on the heritage of former ‘diet Coke’ adverts that also featured the song. While we appreciate that each individual will read their own interpretation into our advert, we would argue that the majority of the community would recognize that we are presenting a confident empowered man, enjoying a brief break from his day to day work. It is neither exploitative nor degrading.*

*Section 2.4 of the AANA Code of Ethics requires that “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.*

*We would submit that the advert treats sex and nudity with sensitivity to the intended audience. Our intention, as with all of our advertising, is to engage our target audience, in this case female 25-39 year olds. We believe the advertisement portrays the enjoyment of 'diet Coke' by friends in scenes that reflect community standards, particularly amongst this demographic. The removal of a man's t-shirt can be commonly seen on beaches, building sites, sports fields and when carrying out domestic chores, and is not insensitive to prevailing community standards.*

*The level of sexual innuendo i.e. flirtatious glances by both the male and females depicted would not be considered insensitive by our target audience. We note that we have not received any other consumer complaints in relation to this advertisement being of a derogatory or offensive nature.*

#### *Placement*

*We took care when negotiating the placement of our advertising to comply with the AANA Code and with our own Responsible Marketing policy, which precludes amongst others marketing to children under 13.*

*Our agency put in every effort during programming negotiations the 'Gardener' advertisement was seen only by appropriate audiences. Our media placement strategy was designed to target programming with a predominantly female audience. Based on the information provided, the complainant is likely to have seen this advert during Revenge, which according to our analysis has a 68% female audience.*

*The 'diet Coke' Gardener TVC is no longer being shown on Free to Air TV, but will continue to appear in selected slots on subscription TV until 6th July and in cinemas until 9th July.*

*We sincerely apologise to the complainant for any offence caused. However, we are confident that the AANA Code of Ethics was followed in the production and placement of the 'diet Coke' 'Gardener' advertisement. The advertisement does not discriminate or vilify women or men, nor treat any of the parties featured in a manner that is insensitive to the relevant audience. We submit the advertisement does not breach any of the AANA Code.*

*We are very happy to answer any further questions you may have and please let us know if you need more information.*

## **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 complainant's concern that the advertisement is offensive and derogatory towards men.

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

The Board considered whether the advertisement was in breach of Section 2.1 of the Code. Section 2.1 of the Code states: “Advertising or Marketing Communications 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...gender..”

The Board noted that the advertisement features a man removing his tee shirt and drinking a can of diet coke whilst being openly admired by a group of women.

The Board noted the complainant’s concern that it is offensive to show a man being ogled by women and considered that the man in the advertisement removes his top after he becomes aware that the women are watching him and that he appears to be enjoying their admiration. The Board noted that at the end of the advertisement the man is shown walking away then looking over his shoulder to smile at the women and considered that this action further enforces the overall impression that the man is openly flirting with the women and is happy to acknowledge and encourage their appreciation.

The Board noted the complainant’s comment that if the genders were reversed the advertisement would not be tolerated and considered that the Board’s role is to consider each advertisement on its own merit and that addressing hypothetical alternatives is not part of their role.

The Board noted the light-hearted and humorous tone of the advertisement and considered that the depiction of the man enjoying the women’s admiration and the women openly admiring the man are not depictions which amount to discrimination or vilification against either gender.

The Board determined that the material depicted did not discriminate against a section of the community based on gender and did not breach Section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

The Board noted that the man is shown removing his tee shirt and that the women are shown to be admiring his physique. The Board noted that the man willingly removes his top and that he is aware that he is being watched and admired. The Board noted that whilst some members of the community could consider it to be exploitative to use a man’s body to sell a product, in the Board’s view the man is clearly empowered and is not presented in a manner which is degrading.

The Board determined that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading and did not breach Section 2.2 of the Code.

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 the level of nudity in the advertisement is relatively mild and

considered that it is not uncommon to see men without shirts during warmer weather. The Board noted that there is no physical interaction between the man and the women beyond eye contact and considered that whilst the soundtrack is of a sexual nature it is a song commonly used as a backing track in advertisements and is not inappropriate in the context of a PG rated advertisement.

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.