



Case Report

1	Case Number	0210/15
2	Advertiser	Nestle Australia Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/06/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - men
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a man cooking in the kitchen (Dave). He is not wearing a shirt but has an apron on. He has created a spread of sweet treats which are spread out on the bench in front of him. Two women (unseen) are commenting on the addition of the Sweetened Condensed Milk to the baking process and on the lavish spread on the bench. At the end, he lifts the head on the electric mixer before switching it off properly, and is splattered with cream.

THE COMPLAINT

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

I find this advertisement to be very sexist. They are using men in a sexual manner to promote a product which would not be acceptable if a woman was used in the same manner. So if not acceptable to sexualise women for advertising why should companies be allowed to use men in the same way?

As above - not appropriate for male or female behaviour

The male model is clearly topless, and apparently "yummy"

This is a double standard in advertising all too common that society seems to think it's fine to objectify men in a sexual sense. An advertising company would never use a woman in such a way, but for some reason seem to think it's fine to objectify a topless man based on his looks and being "yummy". He also spills the cream all over his apron possibly simulating an ejaculation shot from a porn movie.

This ad treats men like we are just a piece of meat! This makes me sick! They should be ashamed! Total double standards

As a middle age man that does not look like the man portrayed on the ad, who cooks with clothes on, and cooks to survive as opposed to cooking to entertain other people, I resent the portrayal of a man as a piece of meat. That a man can only cook if he looks good doing it, that he must look a certain way and that he must be sexy doing it. This is blatant sexism reversed. If the law is in place to assist ladies to retain self respect than it must work both ways. I find this Ad deeply offensive on every level from morals, to objectism to double standards. The "using" of a man to sell a product is disgusting, plus it is openly aiming a product at woman only therefore discriminating against men. Thank you.

- *It's blatantly sexist.*
- *If it was a woman dressed only in an apron it would not be considered appropriate.*
- *It objectifies men.*
- *It is sexually suggestive.*
- *Raises questions for children (why is that man not wearing any clothes?).*
- *Shows terrible double standards*

This advertisement is an example of double standards. If it is sexist to use a scantily dressed female to advertise something (particularly something as irrelevant as condensed milk?), then why is it not considered sexist to portray a young man, dressed only in an apron, in the same manner?

THE ADVERTISER'S RESPONSE

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

We wish to state from the outset that Nestlé does not consider the Advertisement to be in breach of the Code of Ethics or any of the Codes which the ASB administers.

Nestlé is very proud of its heritage in the Nestlé Sweetened Condensed Milk brand – it is over 100 years old. The intention of the Advertisement is to remind Australian bakers why they love our product – the taste, the thickness, and the recipes and because it is made with Australian milk – and that its inclusion in baking products makes the delicious even more delicious.

Our research has shown that men now account for 37% of 'sweet creation' baking moments, so we have taken this, followed a non-traditional path and depicted a male baker but we are still wanting to engage with our core target audience – women who bake 2-3 times a week – in a humorous and off-beat manner.

Nestlé was conscious of its obligations under the Code of Ethics in the creation of the Advertisement and believe we created an advertisement that has humour but stays within the required confines. To ensure we did this, Nestlé worked with our agency to engage a research consultant who specialises in advertising to women to review the script and concept to ensure that the Advertisement, and its use of humour, was appropriately placed to engage with our target viewer.

Code of Ethics Sections

Section 2.1 of the Code of Ethics

Section 2.1 of the Code of Ethics provides that an advertiser shall not portray people or depict material in a way which discriminates against or vilifies a person including on the basis of gender.

Nestlé acknowledges that we have chosen to use an attractive male to showcase our Sweetened Condensed Milk product – but with a light-hearted intent. This is not dissimilar to the Philadelphia Cream Cheese advertisement where the ASB (0203/10) found that advertisement to be “a parody of advertisements that use attractive women to present products – the parody element is clearly shown by the women redirecting the viewer’s attention to the product and not to the men cooking.”

The AANA Practice Note for the Code of Ethics states that portraying a woman (and thus a man) as attractive does not of itself constitute discrimination or vilification of women under Section 2.1.

The ASB has also considered the question of whether the actions or the comments of women in the vicinity of a male amount to discrimination or vilification in a number of previous decisions, notably for Diet Coke (0200/13), Philadelphia Cream Cheese (noted above) and S&P Construction (0459/14) – all of which were dismissed. Nestlé’s view is that the Advertisement is even more conservative in its depiction of the interplay between the baker and the women in the voiceover than in those advertisements.

Further, in these decisions, the ASB has been careful to note that their role is not to consider hypothetical scenarios (i.e. what if it were a female instead of a male as suggested in the Complaint) instead of the advertisement before it.

While there might be an initial hint of a double entendre in the opening lines – with the women admiring our hero baker, it is soon apparent that the women are in fact talking about the lavish spread on the bench and the product being advertised and not the baker in the kitchen.

The tone used by the women is light hearted and flirty and the baker clearly interacts with the camera. There is no suggestion that the women are treating the baker in a manner which amounts to discrimination or vilification.

For this reason, we respectfully submit the Advertisement does not breach Section 2.1 of the Code of Ethics.

Section 2.2 of the Code of Ethics

Section 2.2 of the Code of Ethics provides that an advertiser should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people

While we acknowledge that the baker shows his bare arms and shoulders, it cannot be said that he is scantily clad. His apron, is appropriate attire for a kitchen, and covers his chest area in the same manner as a singlet – leaving his arms exposed. The height of the bench (at waist height) obscures the fact he was wearing a pair of jeans.

Having a male in the kitchen baking is not degrading to men. It illustrates the findings of our research (regarding levels of participation of men in baking) and he is shown making treats for his mother for Mother's Day – noting this Advertisement was launched for Mother's Day and carries a light-hearted tone to contrast a lot of the usual sentiment in advertisements for the occasion. He is clearly a participant in the scene, aware of the commentary and cheekily interacts with the women.

Unlike the other advertisements the ASB has considered, he is not bare chested or shown to be removing clothing to show off his physique. We note that a number of advertisers use attractive talent to sell their products but it does not automatically follow that the display of some bare skin is degrading and exploitative.

Further, the Advertisement uses a light and humorous soundtrack deliberately – in contrast to the Etta James track of "I want to make love to you" used in the Diet Coke advertisement referred to above.

As the Advertisement neither debases men (for the enjoyment of others) nor lowers them in character or quality, we respectfully submit that the Advertisement is not using sexual appeal in a manner which is exploitative or degrading and therefore does not breach of Section 2.2 of the Code of Ethics.

Section 2.4 of the Code of Ethics

Section 2.4 of the Code of Ethics provides that an advertiser shall treat sex, sexuality and nudity with sensitivity to the relevant audience."

In Nestlé's view the Advertisement meets the requirements of Section 2.4 of the Code of Ethics as it uses an appropriate level of sensitivity. As noted above, any suggestion of nudity is minimal and certainly within the limits previously considered by the ASB to be acceptable. We do not consider it is contrary to prevailing community standards, given the acceptance of men wearing singlets or being shirtless in public, particularly given the Australian climate, and especially as our baker is clothed.

In addition to the decisions noted above, the ASB's decision in the Calvin Klein billboard complaint (0013/15) refers to a minimal level of skin being visible and its finding that most members of the community would not find the advertisement overtly sexualised or inappropriate. This is consistent with the positioning taken in the Bonds decision (0002/15) that inappropriate nudity would be the exposing of private areas.

Nestlé acknowledges that the Advertisement is cheeky and while the double entendre may be used initially (and in the context of a clothed man), it is clear very early on that the women's

comments are in relation to the baking before them and the product being advertised and not the baker. There is no physical interaction between the women and our baker.

Nestlé intended for the Advertisement to be seen by its core target audience – women who bake 2-3 times a week and who are familiar with the Sweetened Condensed Milk product. The attire of the baker and the commentary in the Advertisement are not inappropriate in the context of the broad audience.

The Advertisement was given a CAD Rating of W and was placed in programming accordingly. Further, we were also mindful of the age-gating requirements of Facebook before we shared it on that medium.

In light of the above, and the prior decisions of the ASB, on any reasonable assessment it is apparent that sex, sexuality and nudity has been treated with sensitivity to the relevant audience and therefore the Advertisement does not breach Section 2.4 of the Code of Ethics.

4. Consideration of other Codes

In addition to the other provisions of the Code of Ethics, Nestlé has also considered the AANA Food and Beverages Marketing and Communications Code and considers that the Advertisement complies with those codes in all relevant aspects.

5. Conclusion

Nestlé acknowledges the Complaint and the importance of responsible marketing. Nestlé applies a rigorous internal review process to its marketing communications, including consideration of compliance with the Codes which the ASB administers including the Code of Ethics.

In all the circumstances as set out above, Nestlé considers that the Advertisement does not infringe any of those matters set out in Section 2 of the Code of Ethics and therefore respectfully submits that the Complaint should be dismissed.

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 sexist in its depiction of a man wearing only an apron; objectifies men by using the man’s muscular physique to promote a food product; features nudity and sexually suggestive material.

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 this television advertisement features a man at a kitchen bench surrounded by baked goods as two female voiceovers make appreciative comments.

The Board noted the complainants' concerns that it is sexist to use a man in this manner and that if a woman had been used instead the advertisement would not be aired. The Board noted that its role is to consider each advertisement on its own merit and that addressing hypothetical alternatives is not part of its role.

The Board noted that the man in the advertisement is clearly enjoying himself with the baking equipment he is using, and considered that the man's facial reactions suggest that he can hear the women's comments and that he is not unhappy with the situation he is in.

The Board noted it had previously dismissed complaints for a cooking product where a woman is in a kitchen with two male cooks (0203/10):

"In the Board's view the advertisement is a parody of advertisements that use attractive women to present products...

... The Board considered that the tone of the advertisement is light hearted and flirty and that the men happily go along with the woman's references to them being good looking."

The Board noted it had also previously dismissed complaints about comments women made about a man in a Diet Coke advert in case 0200/13 where:

"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."

Consistent with its previous determination the Board noted the light-hearted and flirtatious tone of the current advertisement and considered that a depiction of women admiring a man and/or his cooking abilities, or of a man enjoying this admiration, does not amount to material which discriminates against or vilifies either gender.

The Board determined that the advertisement 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 in order to be in breach this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading.

The Board noted that whilst some members of the community could find the use of a man without a top to promote a cooking product to be exploitative in the Board's view the man is clearly empowered and is not presented in manner which is degrading to men.

The Board considered that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

The Board determined that the advertisement did not breach Section 2.2 of the Code.

The Board then 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 the complainants' concerns regarding the nudity of the man in the advertisement. The Board noted the advertiser's response that the man is wearing jeans and considered that the height of the bench obscures his lower body so this is not possible to confirm. The Board noted that the man is wearing an apron over his naked torso but considered that consistent with its determination in a previous case featuring a similar image (0015/12) the level of nudity is not inappropriate and the man is not presented in a sexualised manner.

The Board noted the advertisement had been rated 'W' by CAD and considered that the overall content is not inappropriate for the broad audience which would include children.

he 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 complaints.