



Case Report

1	Case Number	0213/12
2	Advertiser	Specsavers Pty Ltd
3	Product	Professional services
4	Type of Advertisement / media	TV
5	Date of Determination	13/06/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

A gentleman enters what seems to be a steam filled sauna. We see his towel drop to the floor and he takes a seat on a bench in the sauna to relax. It is revealed that the room he has entered is actually a kitchen.

We see a chef's hand place a lid on a large pot while the gentleman sits oblivious to his surroundings. Slowly the steam disappears and other kitchen staff start to appear. The man opens his eyes and comes to the realisation that he is in fact sitting in a kitchen and not the sauna.

We cut to a wide shot of a large pepper mill sitting on a kitchen bench top in front of the man sitting on the bench. We cut back to Gordon Ramsay taking his anger out by chopping into a cucumber.

THE COMPLAINT

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

The nudity plus the phallic symbol depicted by the pepper grinder. I don't consider myself prudish but this ad really makes me sick.

My granddaughter has asked why they need to put that rude man on TV. 'Please turn it off'. A naked man has nothing to do with glasses; it is offensive and was shown at a time when children are watching TV. Though you don't see his actual private parts Gordon Ramsey makes it very clear what we don't see. There is no need to be so crude.

THE ADVERTISER'S RESPONSE

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

We believe that the TVC does not contravene the Advertising Association of National Advertisers Code of Ethics (Code of Ethics), the Advertising & Marketing Communications to Children Code (AMCC Code) or the Food & Beverages Advertising & Marketing Communications Code (FBAMC Code).

About Specsavers:

Specsavers entered into the Australian wholesale optical market in January 2007 supplying frames, lenses and complete spectacles to retailers. In February 2008, Specsavers opened its first retail store in Australia and since that date, Specsavers has engaged in the business of:

(a) the provision of eye examinations;

(b) sale of eye care products, including frames and lenses and contact lenses; and

(c) provision of other goods including solutions and glasses and optical lens accessories.

Since entering the Australian market, Specsavers has opened 265 stores across Australia and through a 'two for one low price' pricing strategy has assisted in making glasses more affordable and accessible for Australians.

Code of Ethics:

We note that the complainant's reasons for concern in relation to the TVC are:

"The nudity plus phallic symbol depicted by the pepper grinder. I don't consider myself prudish but this ad really makes me sick."

Section 2.4 of the Code of Ethics provides:

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

Specsavers believes that the TVC does not contravene section 2.4 or any other provision of the Code of Ethics. The TVC was rated 'W' (General Warning) by CAD. A 'W' rating by CAD provides that the TVC:

May be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in cartoon and other programs promoted to children or likely to attract a substantial child audience.

We confirm that care has been taken to ensure that the TVC is not broadcast during times categorised as P (preschool) on the CAD rating system or C (children) or times adjacent to P or C rated periods. In addition, care has been taken not to place the TVC in cartoon and other programs promoted to children or likely to attract a substantial child audience.

While the TVC clearly conveys the impression that the man depicted is nude, the TVC does not overtly display nudity or any sexual images. No obscene language is used in the TVC and the images portrayed are appropriate having regard to prevailing community standards.

The TVC's overall objective is to highlight how even insubstantial vision impairment can affect day-to-day activities, sometimes embarrassingly, and to motivate consumers who need glasses to visit a Specsavers store. It was never Specsavers' intention to treat nudity inappropriately and we do not believe reasonable consumers would interpret the TVC in that manner or be offended by it.

In this regard, we note that a substantially similar television commercial has been broadcast in other jurisdictions for some time, most notably the United Kingdom. The TVC has also been available on YouTube and was shown on the Today show in Australia (without the involvement of Specsavers) earlier this year. Since that time, Specsavers has not received any other complaints in relation to the TVC.

We believe that this is indicative of the fact that reasonable members of the community see the light hearted nature of the TVC and are not offended by it. In this regard, we believe that in all circumstances the view of a minority, which appears inconsistent with community standards, should not result in any action being taken against Specsavers.

The Advertising & Marketing Communications to Children Code

The AMCC Code applies to 'Advertising or Marketing Communications to Children', which is defined as:

"Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product."

We note that 'Children' is defined to mean 'persons 14 years or younger' and 'Product' is defined to mean:

"goods, services and/or facilities which are targeted toward and have principal appeal to Children."

Specsavers believes that the AMCC Code does not apply to the TVC. Specifically:

(a) the products are not goods which are targeted towards, or have principal appeal to, children. The products are prescription glasses, which are typically targeted at adults aged between 40 and 64; and

(b) the TVC is not directed to children. The theme, visuals and language of the TVC are designed to appeal to adults between the ages of 40 and 64 who need prescription glasses.

Further, the programs in which the TVC has been broadcast are programs directed towards adults and would only reasonably be viewed by children with appropriate adult supervision.

Food & Beverages Advertising & Marketing Communications Code

The FBAMC Code does not apply to the TVC. The TVC is not advertising for Food or Beverage Products (as those terms are defined in the FBAMC Code).

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 features a naked man and phallic references and that it is not appropriate for viewing by children.

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 the advertisement depicts a man entering what he believes to be a sauna and when the steam clears he realises he is sitting naked on the counter of a professional kitchen.

The Board noted that the advertisement had been rated 'W' by CAD which means it may be broadcast at any time except during Preschool and Children's Programs and that care should be exercised in the placement of the advertisement during programs likely to attract a substantial child audience.

The Board noted that the man removes his towel when entering the 'sauna/kitchen' and that we see him naked. The Board noted that his private area is obscured by a strategically placed pepper pot and considered that the advertisement does treat nudity with sensitivity to the relevant audience including children.

The Board noted the complainants' concerns over the use of the pepper pot to cover the man's private area as well as the scene where the celebrity chef, Gordon Ramsey, is seen chopping a cucumber in half when he notices the naked man in his kitchen.

The Board considered that it was unlikely that most children would understand the phallic references and that even if they did understand these references they are presented in a humorous manner and not a sexualised one. The Board considered that most members of the community would recognise Gordon Ramsey's response as being consistent with his on-screen persona and considered that the advertisement as a whole treats sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it 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.