



Case Report

1	Case Number	0213/14
2	Advertiser	Fresh One
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet - Social
5	Date of Determination	30/07/2014
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- Other Social Values

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading
- 2.2 - Objectification Exploitative and degrading - women
- 2.3 - Violence Violence
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Various images on the Facebook page for Freshonebeans, a coffee beans retailer, which include:

1. Image of the back of a woman with the words, “ECO friendly” across her back. She is pulling down her g-string at the sides.
2. A syringe next to some coffee beans. Text reads, “Get your Fresh One hit today”.
3. Image of a woman kneeling in front of a man who is wearing jeans. The woman has one hand pressed against his naked torso and the other hand is holding the top of his jeans. The text reads, “Ain’t nothing like a morning Freshy”.
4. A man is kneeling on the floor with his head resting on a sawn off tree trunk. Behind him is a hooded person holding an axe above the kneeling man’s head.
5. Image of a coffee cup with the Fresh One logo. On one side of the cup is a cat in a

washtub and on the other is a cockerel. The text reads, "What do you get when you mix a cock and a wet pussy? Fresh One".

6. Image of a woman's naked chest. One arm is covering her nipples the other is holding up a bag of Fresh One coffee beans. The text reads, "Name me and I'll come home with you..."

THE COMPLAINT

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

Hopefully you will be able to just look at these ads and see what the problem is. Rather than advertising the product, they are advertising sex, women, women's bodies, sexual acts and so on. They are treating women as objects, dehumanising them. Is it really any wonder that SOME men feel a sense of entitlement to women's bodies when companies like this one use women in this way. Self-regulation is not working! These sorts of ads should not be allowed and as you can see by the links I have provided it is not a one off!

Glamorising sex acts and drug use is unacceptable.

It is highly offensive considering what is happening in the Middle east at the moment.

The picture dehumanises women. She has no head, no face, just breasts. The wording is sexualised and the picture has nothing to do with coffee.

It is disgusting, demeaning and putting a commonplace item into a "bedroom" situation for no discernible reason...the Fresh One ads are popping up all over, and are incredibly demeaning, misogynistic, and downright crude. Between promoting offence through their "drug culture" ads, through to the connotations that a Fresh One is a new sexual partner, or trying a new sexual position, or is using vulgar language to make "jokes" that are purely titter material for teenage boys.

THE ADVERTISER'S RESPONSE

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

It has come to my attention that there has been concentrated attention to our Facebook site for Fresh One beans. I am aware that there have been complaints to the ASB as well as many negative posts, rants and some threats of violence and physical damage on our Facebook page. From our investigations and further assumptions these seem mostly to be from a group known as Collective Shout and some of their derivative supporters although I can see from most of the official complaints to the ASB that anonymity has been requested.

After a fairly lengthy investigation into other Facebook advertising and other general exposure via this social media platform as well as discussions with our legal advisers I am confounded by the level of attention the page has received. There seems to be so many more portals that offer expletive based commentary and naked sexual imagery well beyond the gregarious nature of Fresh's One's page.

This would then indicate that the level of negative attention to the page and number of complaints received by the ASB would be the result of a focused attack on Fresh One. This scenario (which has been attempted before by this particular group) is one that now has commercial implications and can now be confronted on a litigious level.

Please advise by way of email what if any action you require from our Management Team, to be considered and presented to our legal advisers. This will preserve the legitimacy of our legal pursuits and accountability for damage done to our brand by this group via misleading reposts and plagiarised advertisements.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether these advertisements breach Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concern that the advertisement in the form of a range of posts on the Facebook page of the advertiser includes images of women which are degrading, images depicting drug use or violence and that all of the posts are inappropriate for a broad audience.

The Board viewed each post and noted the advertiser’s response.

The Board first considered the definition of advertising or marketing communications. Under the Code, advertising and/or marketing communication means “any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and over which the advertiser or marketer has a reasonable degree of control, and that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct.”

The Board considered that posts on a Facebook site of an advertiser which draw specific attention to the advertiser’s product in a manner calculated to promote that product is a marketing communication tool over which the advertiser has a reasonable degree of control. The Board determined that the provisions of the Code apply to the posts (comprising the images and accompanying text) referred to in this determination.

The Board considered each post separately.

Post 1: Eco Friendly

The Board considered whether the post 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 post features a woman viewed from behind. She is wearing only a g-string and has her thumbs hooked in the sides and appears to be in the act of pulling them

down. The Board considered that this is an image making use of sexual appeal. The Board noted however that in order to be in breach of this section of the Code the image would need to be both exploitative and degrading. Some members of the Board considered that the depiction of the backside of the woman and her bottom and legs covered in, presumably coffee grinds, amounts to an image which is fetishist and degrading. However the majority of the Board considered that the image is objectifying but is not exploitative or degrading.

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

The Board considered whether this post 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 woman in the image has her thumbs hooked in the side of her g-string and appears to be in the act of pulling it down. The Board noted it had previously upheld a similar image where woman was pulling at her underwear (0134/11) and considered that consistent with this previous determination in the Board’s view this image suggest the woman is about to remove her g-string.

The Board noted the accompanying text to this image which includes, “A Freshy will leave you feeling pleased and guilt free after the grind”. The Board considered that this text in conjunction with the image of a woman pulling at her pants with coffee grinds on her rear is also a strongly sexualised innuendo.

The Board noted that whilst there is clearly a link between the word ‘grind’ and the process of preparing coffee beans the use of this phrase in conjunction with the image does amount to a reference to a sex act and overall is a strongly sexualised image.\

The Board noted that Facebook pages are available to people over the age of 13. However the Board considered that this particular Facebook page would generally be attractive to and have an audience of adult coffee drinkers. In the Board’s view, adult coffee drinkers who are active on Facebook are the relevant audience for these posts. However, the Board noted that the posts could be seen by children over the age of 13 and that this should be taken into consideration as a small part of the audience.

In the Board’s view the post is sexually suggestive and does not treat sexuality with sensitivity to a relevant audience of Facebook active adults interested in coffee and coffee beans, and is also overly and clearly sexualised to an extent that is inappropriate for a younger audience.

The Board considered that this post did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did breach Section 2.4 of the Code

Post 2: A syringe next to some coffee beans

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted that this post features an image of a syringe next to some coffee beans and the text reads, “Get your Fresh One hit today”.

The Board noted that whilst the depiction of the coffee beans inside the syringe is an unrealistic depiction of how coffee is consumed the Board considered that the use of drug paraphernalia with a clear reference to drug use, “get your...hit today” is not appropriate in the context of a coffee advertisement as it is a depiction which strongly suggests material, specifically drug use, that is contrary to prevailing community standards on health and safety.

The Board determined that this post does breach Section 2.6 of the Code.

Post 3: Image of a woman kneeling in front of a man.

The Board considered whether the post 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 post features a woman kneeling in front of a man with her hand resting on his naked torso and that this image in conjunction with the accompanying text ‘I’ve been waiting to explode in your mouth all morning let us treat you to a FreshOne.’ is strongly sexualised and suggestive of ejaculation following oral sex.

The Board noted that in order to be in breach of this section of the Code the image would need to be both exploitative and degrading.

The Board noted that the woman appears to be performing a sexual act on the man and considered that whilst this could be considered an exploitative image of a woman ‘servicing’ a man, in the Board’s view the woman does not appear to be taking part against her will. Due to the interpretation of the woman being a willing participant in the depicted act, the Board considered that the image is not degrading and therefore does not meet the threshold of being both exploitative and degrading.

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

The Board considered whether this post 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 accompanying text to this image which includes, “Ain’t nothing like a morning Fresh One. I’ve been waiting to explode in your mouth all morning. Let us treat you to a Fresh One.”

The Board considered that an image of a woman kneeling in front of a man with her head at his groin is a highly sexualised image. The Board noted the text, “...explode in your mouth...” and considered that whilst this is a double entendre for both oral sex and the sensation of drinking the advertised coffee in the Board’s view the overall message is clearly intended to be suggestive of a sexual act. The Board considered that in this instance the image and the wording of the advertisement are not appropriate for the relevant audience which could include young people over the age of 13 and would also be considered to be

inappropriately sexualised by Facebook active adults who are expecting to see content related to coffee and coffee beans..

The Board considered that this post did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the post did breach Section 2.4 of the Code.

Post 4: A man is kneeling on the floor with his head resting on a wooden block. Behind him is a hooded person holding an axe above the kneeling man's head.

The Board considered whether the post 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 this image of a man who appears about to be decapitated by a masked executioner and is accompanied by text outlining the Ottoman Empire ruler's treatment of coffee drinkers in the 17th century. The Board considered that the intention is to create an historical content justifying the post. However the Board considered that the man with his head on the wooden block looks distressed and the hovering executioner with a raised axe presents a sense of menace and violence which is not appropriate in the context of the advertised product regardless of the accompanying text.

The Board noted the Practice Note to Section 2.3 which provides:

"...a strong suggestion of menace presents violence in an unacceptable manner and breaches this section of the Code."

The Board considered that in this instance this post does not present or portray violence in a manner that is justifiable in the context of the product or service advertised and determined that the post does breach Section 2.3 of the Code.

Post 5: Image of a coffee cup with the Fresh One logo, a cat in a washtub and a cockerel.

The Board considered whether this 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 text accompanying the image reads, "What do you get when you mix a cock and a wet pussy? Fresh One."

The Board noted that whilst the images are clearly of a cat in a tub of water ('wet pussy') and a cockerel ('cock') the Board considered that the accompanying language, 'cock' and 'wet pussy' is a direct reference to colloquial descriptions of both male and female genitalia.

The Minority of the Board considered that the images and text are a double entendre sexual reference that would not be understood by younger people and is suitably vague to be considered acceptable by most adults. The majority of the Board however considered that the combination of the pictorial images and written references amounted to an overall depiction

that is a strong sexual reference that is not appropriate for the relevant audience of Facebook active adults who are expecting to see content related to coffee and coffee beans.

The Board determined that this post does breach Section 2.4 of the Code.

The Board then considered whether the post was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided”.

The Board noted that the post uses the words, ‘cock’ and ‘wet pussy’ and considered that although there are accompanying pictures of a cat and a cockerel in the Board’s view this language is clearly intended as a reference to genitalia and is not appropriate in the context of an advertisement for coffee beans. The Board also considered that some members of the relevant audience would consider this wording strong or obscene.

The Board determined that this post did breach Section 2.5 of the Code.

Post 6: Image of a woman holding a bag of coffee beans against her naked chest.

The Board considered whether this post 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 one of the woman’s arms is both covering her nipples and pushing her breasts up and together so they are very prominent in the post. The Board noted that the woman’s other arm is holding up a bag of Fresh One coffee beans. The text reads, “Name me and I’ll come home with you...”

The Board noted that the woman’s head is not visible in the image and the focus of the image is a naked torso.

The Board noted the text, “Name me and I’ll come with you...” and considered that although the image and text are promoting the naming of the bag of coffee beans the woman is holding in the Board’s view there is a strong suggestion that it is the woman who needs naming and that she will go home with the winner. The Board considered that this amounts to use of a woman in a manner that is objectifying and does amount to use of sexual appeal that is both exploitative and degrading to women.

The Board determined that the post does breach Section 2.2 of the Code.

Finding that the advertisement represented by each of the posts detailed above did breach Sections 2.2, 2.3, 2.4, 2.5 and 2.6 of the Code the Board upheld these complaints against the posts.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The images have been removed from the Facebook page.