



Case Report

1	Case Number	0213/16
2	Advertiser	Specsavers Pty Ltd
3	Product	Health Products
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/05/2016
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

This television advertisement opens on a mother and son sitting down for a cup of tea when the son starts complementing his mum on her new glasses and how expensive they must have been. His mum proceeds to reassure her son that her new glasses were in fact not expensive as she went to Specsavers and jokingly states (as she looks out the backdoor) that she's not spending the inheritance but in fact she's 'leaving it to Derek'. Cut to the male Gardener outside, who smiles and waves.

THE COMPLAINT

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

It's probably the most blatantly sexist advertisement on TV and belongs in the early 1970's. it sexually objectifies men and insults the intelligence of women. it has a very smutty dirty undertone.

Simply reverse the sexes for a moment.

Old man his daughter is visiting. Same scenario. I'm not spending your inheritance, i'm leaving it to Roxanne- cut to clantly clad maid dusting furniture.

It really is disgusting and had the sexes been reversed wouldn't have lasted a single night. in fact it would never have been aired once with the sexes reversed. therefore, i put it to you that

there is NO room for smutty, suggestive, sexist advertising on Tv regardless of which gender it offends.

THE ADVERTISER'S RESPONSE

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

Specsavers comprehensive comments in relation to the complaint

The intention of the advertisement is to appeal to our Over 60's demographic where we believe the humour is a light hearted attempt to speak to our young at heart audience. The advertisement is a topical scenario relating to inheritance that our Over 60's audience may find humour in whilst promoting an offer exclusive to their age group i.e. 25% off glasses for Over 60's.

We believe this does not insult the intelligence of women as the lead female character is portrayed as an empowered woman.

The Gardener is not depicted in any smutty, suggestive or sexist scenario within the advertisement.

The advertisement is light hearted and in keeping with community standards of decency and humour.

Section 2.1 of the Code states that "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"

The Code does not define the terms "discriminates" or "vilifies". In light of this, ordinary English meanings should be adopted. Specsavers draws your attention to the following Macquarie Dictionary definitions in the context of this complaint:

"vilify": to speaking evil of, defame, libel, malign, slander

"discriminate": to make a distinction, as in favour of or against a person or thing.

We do not believe it can reasonably be said that any aspect of the advertisement portrays people or depicts 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. In particular:

(a) there are no aspects of race, ethnicity, nationality, religion, disability, mental illness or political belief involved in the advertisement; and

(b) there is nothing in the content of the advertisement which vilify or discriminates in respect of gender, age or sexual preference.

Rather the advertisement portrays what we believe is a light-hearted and humorous situation

in keeping with the appropriate tone of much television content and community standards. Contrary to the complaint, the advertisement does not sexually objectify men nor does it insult the intelligence of women. Further, we note that these allegations are also not the tests which are applicable under section 2.1 of the Code.

Section 2.2 of the Code states 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. “

The male gardener in this advertisement is presented in a positive and appealing manner. There are no overt or explicit sexual connotations in this advertisement.

The female in the advertisement is depicted as well-spoken and conservative in both her dress and language. Nothing about her tone of voice or facial expression is exploitive or degrading in tone.

Nothing in the content of this advertisement is degrading of any individual or group of people. Therefore we believe the advertisement complies with Section 2.2.

Section 2.3 of the Code states that “Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.”

There is no violence depicted in the commercial we therefore believe that the advertisement complies with the code in relation to Section 2.3.

Section 2.4 of the code states that “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.”

We believe that the advertisement does not contravene section 2.4 of the Code. The advertisement 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 programs principally directed to children.

We confirm that care has been taken to ensure that the advertisement 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 advertisement in programs principally directed to children.

We do not believe there is any explicit or implicit sex or sexuality in the advertisement.

While the advertisement briefly depicts a man with no shirt on, it clearly shows he is otherwise clothed and the reference to him does not carry any smutty or dirty undertone. The female in the advertisement is depicted as well-spoken and conservative in both her dress and language. Nothing about her tone of voice or facial expression is smutty or dirty in tone. The subject matter is light-hearted and in keeping with common and publicly accepted humour.

Specsavers has not received any other complaints in relation to the advertisement. We believe

that this is indicative of the fact that reasonable members of the community see the light hearted nature of the advertisement and are not offended by it. We believe that the advertisement complies with the code in relation to Section 2.4. Accordingly, in all of the circumstances the view of a minority, which appears inconsistent with community standards, should not result in any action being taken against Specsavers.

Section 2.5 of the Code states that “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

We do not believe there is inappropriate language in the commercial we therefore believe that the advertisement complies with the code in relation to Section 2.5. For further explanation of the appropriateness of the content of the advertisement we refer to our responses above.

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

We do not believe the commercial depicts material contrary to Prevailing Community Standards on health and safety we therefore believe that the advertisement complies with the code in relation to Section 2.6

Placement and duration of the commercial

The commercial has aired in bursts over 2016. This first burst commenced on Sunday March 20th 2016 and ran for 2 weeks on major TV networks and their affiliate stations. Also a small amount of media has been purchase on PTV.

The second burst aired on Sunday 24th April. Again this ran for 2 weeks on major TV networks and their affiliate stations. Also a small amount of media has been purchase on PTV.

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 concerns that the advertisement is sexist, objectifies the gardener and insults the intelligence of women.

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 that the advertisement features an older woman, telling her son she has

saved money by going to Specsavers, thus not 'spending the inheritance', but adding that she's leaving it to Derek, the gardener. The Board noted that Derek, wearing only shorts, is visible in the garden.

The Board noted the complainant's concern that the advertisement sexually objectifies men. The Board noted that the woman looks out to the garden, to Derek the gardener, and considered that he appears to acknowledge and enjoy the appreciation, waving and smiling at her. The Board considered that the man is depicted as a gardener, he is gardening in the image and that this is not humiliating or unfair treatment.

The Board noted the complainant's comment that if the genders were reversed the advertisement would not be aired 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 its role. The Board noted the light-hearted and humorous tone of the advertisement and considered that the depiction of the man enjoying the woman's admiration and the woman openly admiring the man are not depictions which humiliate and amount to discrimination or vilification against either gender.

The Board noted the complainant's concern that the advertisement 'insults the intelligence of women'. The Board recognised that there is a genuine concern regarding the stereotyping of older people as being less capable or intelligent but considered that in this instance the woman is portrayed as being happy, in control and aware of her actions and comments, and having a joke at her son's expense.

The Board determined the humorous scenario does not discriminate against or vilify women or men.

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 the gardener is not wearing a top and is aware, demonstrated by waving and smiling, that he is being watched and admired. The Board considered that he was performing his work, not posing in a sexualised manner, and that it would not be unusual for a man undertaking manual work to work without a shirt. 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 considered that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading to 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 that there was some mild nudity with the gardener presented without a top however the Board considered that this was contextual and considered that it is not uncommon to see men working outside without shirts during warmer weather. The Board noted that there is no physical interaction between the man and the women beyond eye contact.

The Board noted that the CAD rating for the advertisement was W, which provides that the advertisement is not to be shown at during or adjacent to P or C periods, and care shown when placed in programs principally directed to children.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board 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.