



Case Report

1	Case Number	0220/13
2	Advertiser	Nando's Australia Pty Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	10/07/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The scene opens on a busy Nando's restaurant. We see a family eating a meal, sharing time together and enjoying the experience.

We see the child, eating some corn who asks his father "Dad, where do I come from?"

His father looks to the mother for help who quickly leaves the table, leaving the dad alone to respond to the question.

"You know men and women are very different..."

He quickly looks to what's around him for help, he picks up a chip and continues..."Imagine this is daddy" He looks at the small chip, then changes his mind..."No that isn't daddy..."

He picks up a chicken tender..."This is daddy..."

Then he picks up a bowl of salad..."and this is mummy..."

Unsure where he is going with the props he try's another analogy... "And you know how daddy likes to play golf..." He starts waving around the salad and the chicken... "And I'm trying to get it in the hole and it try and I try to get it in"

He picks up a tomato and throws it in a glass "And eventually I get a hole in one... and that is where you come from"

The mum returns and her son turns to her and says "Mum, I thought we came from England"

Dad realizes what he has done and is visibly embarrassed. "There's that too - kill me"

We cut to a food shot and the Nando's logo

THE COMPLAINT

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

I find this "advert" offensive and degrading to women but also to children, as if any sane Father would comment on his sexual activity with his Mother in such a rude way in the middle of a meal!

THE ADVERTISER'S RESPONSE

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

Applicable Codes

We have considered the complaint and the advertisement in question in light of the provisions of the AANA Code of Ethics ("the AANA Code") and the AANA Food & Beverages Advertising & Marketing Communications Code ("F&B Code"), which we consider to be the Codes most applicable to this advertisement.

With regards to the AANA Code for Advertising & Marketing Communications to Children ("Children's Code"), we note that an "Advertising and Marketing Communication to Children" is defined as advertisements which "having regard to the theme, visuals and language used, are directed primarily to Children and are for Product." In our view, having regard to the theme and visuals of the advertisement, the advertisement is not directed at children. Additionally, we note that the definition for "Advertising and Marketing Communication to Children" includes a provision that the advertisement must be for "Product", which is defined as "goods, services and/or facilities which are targeted toward and have principal appeal to Children." We note that Nando's chicken is not a product that is primarily targeted towards children, nor is it of principal appeal to children, as it is a product that is enjoyed by consumers of all ages, and is traditionally aimed at a more mature adult market. Accordingly, in our view the Children's Code also does not apply to this advertisement.

Further, for completeness, we advise that Nando's is not a signatory of either the Australian Quick Service Restaurant Industry Initiative For Responsible Advertising And Marketing To Children, or the Australian Food and Grocery Council Responsible Children's Marketing Initiative. Accordingly, these voluntary codes will also not apply to this advertisement.

Response To The Complaint

We note that the nature of the complaint relates specifically to the concern that the advertisement in question is offensive to women and children, and that it is inappropriate for a man to comment on sexual activity in such an irreverent way at meal time. We have carefully considered the AANA Code and F&B Code, and have assessed the provisions

against the content of this advertisement. We submit that the advertisement does not breach either of these Codes on any of the grounds set out in the same.

Firstly, in regards to the F&B Code, in our view, there are no provisions that are specifically relevant to this advertisement. Accordingly, we submit that the advertisement is not in breach of any provision of the F&B Code.

Looking at the AANA Code, Provision 2.4 provides that advertisements must “treat sex, sexuality and nudity with sensitivity to the relevant audience.” We note this provision directly deals with the principal concern of the complainant.

We note that in the advertisement, a young boy asks the question “where do I come from?” to his father. The father initially looks to the mother to assist him in answering this awkward question, however she subtly makes an excuse to leave, leaving the father to attempt to explain on his own. Noting the child’s age, the father attempts to explain procreation without referring to explicitly to sex, proceeding to hold up food objects to symbolise himself and the child’s mother, stating men and women are very different. However, he then appears to switch to a metaphor about golf and becomes flustered, quickly ending the explanation by stating that sometimes he gets “a hole in one”. The boy then reacts with confusion, indicating he had no idea what his father was talking about, and clarifies that his question related to what country they were from, to the subsequent embarrassment of his father.

All of the references to sex made by the father, including the holding up of foodstuffs (including holding up a chip, then substituting a chip for a bigger piece of chicken to represent himself) and the expression “hole in one” are very mild and are unlikely to be understood by children (as evidenced by the fact that the child in the advertisement did not understand them himself). Indeed, the humour of the situation is derived from the fact that the father is going to great lengths to explain procreation without referring to sex at all, leading to the child’s confusion.

The tone of the advertisement itself is very light hearted and is intended to portray a humorous situation of a father awkwardly trying to explain procreation to his young son without going into explicit detail about sex. In our view, this is a situation with which many parents would be familiar and appreciate, and is unlikely to offend reasonable viewers in this context. The explanation given by the father is silly and slightly suggestive, but is not obscene, overtly sexualised or graphic. The imagery shown is also very vague and does not involve anything overtly sexual.

Conclusion

Accordingly, we submit that the advertisement does treat the subject of sex with sensitivity to the relevant audience, and is not in breach of Provision 2.4, or any other provision of the AANA Code or the F&B Code. We therefore submit that the complaint should be dismissed

on this basis.

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 offensive and degrading to women in its depiction of a father commenting on his sexual activity with his son’s mother.

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 the advertisement features a boy asking his parents where he comes from and his father struggling to explain the facts of life as the mother walks away. The Board noted that the man compares himself to a smaller hot chip and then a larger hot chip and his wife to a bowl of salad before making a clumsy reference to golf and a hole-in-one before saying that is where the boy came from.

The Board noted the complainant’s concerns that it is offensive and degrading to women for a man to discuss their sex life with their child and considered that most members of the community would recognise that the man is clumsily trying to explain the facts of life to his son without using correct anatomical and reproductive references and trying not to make clear references to his intimate relationship with the boy’s mother.

The Board considered that the advertisement did not discriminate or vilify any persons or sections of the community and determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.4 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 boy’s reaction to his father’s explanation is one of bemusement and considered that young children who saw the advertisement would be equally unlikely to fully understand the meaning behind the father’s explanation. The Board noted that at the end of the advertisement the boy clarifies his question as being about their country of origin rather than about the biological process involved in being born. The Board noted that the overall tone of the advertisement is humorous and considered that the reference to sex is mild and not inappropriate in the context of an advertisement which has been rated PG by CAD.

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.

Further finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.