



Case Report

1	Case Number	0276/11
2	Advertiser	Hungry Jacks
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	27/07/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.2 - Violence Other

DESCRIPTION OF THE ADVERTISEMENT

The complaint is concerning the Hungry Jack's 'Jack's Packs' TVC showing a series of rabbits in a Hungry Jack's restaurant promoting the availability of a 'pack' of menu items available for a group of 2, 4 or 6 people. The concept relies on the inference of multiple your mates, multiply your savings.

THE COMPLAINT

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

The rabbits look very threatening. They have an angry expression on their faces. They tower over the young girl. They do not speak to her just stare at her. I have two small children. They didn't see the ad they were out of the room but I believe they would have found it frightening and scary. I found the tone of the ad to be intimidating and threatening. I don't think that the time in which I saw it was appropriate as my children could have seen it.

THE ADVERTISER'S RESPONSE

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

The essence of the complaint appears to be that the TVC might be frightening and scary to small children and should not have been displayed at the time at which the Complainant viewed it. The complaint does not include any details as to the time at which the Complainant viewed the TVC.

The TVC promotes the new 'Jack's Packs' range, which increase in size and decrease in (per person) cost as multiple people get together to enjoy their appropriately sized 'Jack's Pack'. The 'Jack's Pack' comes in three varieties being the two person, four person and six person 'Jack's Pack'. To illustrate this theme of 'multiplying' the TVC incorporates imagery of people in Rabbits costumes (Rabbits) which grow in number depending on which 'Jack's Pack' is being referred to. The Hungry Jack's Employee (Employee) is bemused (and smirks) at the two Rabbits who, after a momentary look away, seem to have multiplied out of nowhere to then become four Rabbits, and then later six Rabbits.

From the details provided in the complaint, it appears the Complainant has made a number of (in our view, incorrect) assumptions or interpretations of the Rabbits, their actions (or lack thereof) and the facial expressions of the Employee.

First, the Complainant seems to have formed the impression that the Rabbits are angry. The Complainant asserts that this is based on the expression on their faces. Any reasonable person may draw a number of interpretations of the expression on the Rabbits' Faces. At one point a Rabbit comically scratches its ear, while another is lazily slouching. The different angling of heads suggests a slightly quizzical expression in one and a bemused expression in another. The Rabbit faces are actually shown to be smiling behind their large front teeth (where the two large front teeth are a common feature of rabbit caricatures). In short, there are many varied expressions which may be interpreted from the Rabbits' faces and their actions. In fact, given that more Rabbits appear after the 'Jack's Pack' is explained, one interpretation is that the Rabbits are so happy with the deal that they get their Rabbit mates join them.

Second, the Complainant interprets the Rabbits' silence as being intimidating. There have been a number of silent and loveable children's shows such as 'Humphrey B Bear' and 'Fat Cat and friends', both of which featured human (or larger) sized animals that did not speak. To assert that simply because the Rabbits do not speak that it therefore follows that the Rabbits are intimidating, or attempting to intimidate, the Employee, is plainly incorrect and a misinterpretation of the TVC.

Third, the Complainant asserts that the Rabbits are 'towering over' the young girl. This is also incorrect. The Rabbits are shown to be standing back from the counter in each of the two, four and six Rabbit scenes. As referred to above, the Rabbits are shown in a variety of postures and with a variety of actions, including in one scene a Rabbit scratching its own ear, while another Rabbit is lazily slouching. In the final scene where the Rabbits have multiplied to get the great deals at Hungry Jack's, the Rabbits remain standing behind the counter and are not leaning over the counter and do not in any way 'tower over' the Employee.

Fourth, the Complainant asserts in her description of the TVC that the Employee looks 'slightly worried'. This too is a misinterpretation of the Employee's facial expressions. Clearly the counter worker is bemused by (and smirks at) the two Rabbits who, after a momentary look away, seem to have multiplied out of nowhere to then become four Rabbits, to the clear surprise of the Employee. Happily, though, the Employee has a Jack's Pack just for the four Rabbits, which then again surprisingly 'multiply' into six Rabbits. Each time the Employee refers to the next 'Jack's Pack' available for the Rabbit customers, she smirks/smiles. While the Employee looks surprised at the sudden increase in Rabbits, at no time does she look threatened, scared or otherwise in fear – after all, they are Rabbits.

Finally, the Complainant then draws each of the (incorrect) individual assumptions/interpretations together to subjectively come to the view that the TVC might be frightening to a child. It is worth mentioning that the Complainant's children were not frightened of the TVC – they did not in fact even view the TVC. With respect to the Complainant, no reasonable person in the general community would draw each and every (incorrect) assumption/interpretation and having done so, combine them all together to form the personal view that the TVC might be frightening to a child.

The TVC displays no violence, intimidating behaviour, foul language or other unsuitable content so as to unduly frighten or scare a Child. It is likely a Child would find the advertising, at worst, bemusing and the Rabbits a little odd. More likely they would find the Rabbits cute and fluffy. We suggest that it is unlikely Children generally would find the TVC frightening or scary (unduly so or otherwise).

The TVC is compliant with all provisions of the AANA Code of Ethics (AANA Code). In particular:

(a) the TVC does not portray any violence in breach of section 2.2 nor does it depict material contrary to prevailing community standards;

(b) there is nothing in the TVC to suggest the players are acting in any way other than properly and honestly within the standards contemplated by the reasonable general community;

(c) the TVC contains no foul language in breach of section 2.4 of the AANA Code; and

(d) the TVC contains no breach of related codes, particularly the AANA's Code of Advertising & Marketing Communications to Children or the AANA Food & Beverages Advertising & Marketing Communications Code which are both considered in detail below. There is nothing to suggest that the TVC is in any way non-compliant with any provision of the AANA Code or its associated codes.

The Code for Advertising & Marketing Communications to Children

The CAMCC governs 'Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for a Product'.

'Children' is defined in the CAMCC to mean persons 14 years old or younger (Children).

Further, 'Product' is defined to mean 'goods ... which are targeted toward and have principle appeal to Children' (Product).

The TVC advertises the Hungry Jack's 'Jack's Pack' deal. The food offered in a 'Jack's Pack' includes food that is directed primarily to adults, not Children, and the 'Jack's Pack' individual items are all items commonly purchased by adults. The 'Jack's Pack' is specifically tailored towards what two (or four or six) adults might want to share as a meal. Separately, Hungry Jack's has a range of products for Children, being its 'Kids Value Meals' or 'Kids Club Meals'.

We respectfully submit that the TVC is not governed by the CAMCC in that the communication is not directed primarily to Children and is not in respect of Products which are targeted toward and have principle appeal to Children. The TVC contains no reference to children, nor does it contain any persons discernable as children. The TVC does not promote any of the "Kids Value Meals" promoted from time to time in Hungry Jack's stores and intended to be bought by or on behalf of children. The product advertised is aimed exclusively at promoting adult meals to people other than Children.

Nonetheless should the TVC be assessed in light of the CAMCC, the TVC is not in breach of the code for the reasons previously expressed. Needless to say the TVC expresses none of the other prohibited conduct or elements under the CAMCC regarding product placement, sexualisation, safety, undermining of parental authority, misleading price statements, competitions, popular personalities, alcohol or breach of privacy.

Food & Beverages Advertising & Marketing Communications Code.

The FBAMCC is aimed at ensuring truthful representations and preventing misleading conduct in respect of marketing communications about food. The TVC subject to the present complaint makes no representation (at all) let alone an inaccurate representation regarding nutritional benefits, lifestyle benefits, statistical claims, sporting association or any other claim contemplated by the FBAMCC.

Hungry Jack's and Clemenger BBDO can see nothing in the TVC subject to the present complaint which is in breach of the AANA Code of Ethics or any other related code.

For all of the above reasons, Hungry Jack's and Clemenger BBDO contend that the TVC does not portray anything to suggest would be unduly frightening or distressing for Children, nor is the TVC in breach of any relevant code or standard.

SUMMARY

In producing the TVC Hungry Jack's and its agency, Clemenger BBDO, have taken every care to ensure that it complies strictly with the AANA code and all related codes.

We ensure that all of our advertisements are respectful of the community and suitable for the average consumer and any demographic to which the advertisement is directed. Hungry Jack's and BBDO do not, and certainly do not intend to, to intimidate, frighten or otherwise alienate any of its current or potential customer base.

We request that the complaint be dismissed.

THE DETERMINATION

The Advertising Standards Board (Board) considered whether this advertisement breaches Section 2 of the AANA Advertiser Code of Ethics (the "Code").

The Board noted complainant's concerns that the advertisement depicts intimidating and threatening behaviour and that it could scare children.

The Board noted Section 2.2 of the Code which requires that 'advertising or marketing communications not use violence unless it is appropriate in the context of the advertised product or service.'

The Board noted the advertisement has 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 in programs likely to attract a substantial child audience.

The Board noted the advertisement is for Hungry Jacks meal deals and features giant rabbits which multiply with each increase in the number of people a meal deal can feed. The Board noted the rabbits are people dressed in rabbit costumes and that they do not talk but just look at the waitress.

The Board noted the complainant's concerns that the rabbits have angry expressions on their faces and that the tone of the advertisement is intimidating and threatening. The Board considered that whilst the rabbits do look a bit threatening, they do not actually make any threats and do not make any attempt to interact with the girl who is serving them. The Board noted that the girl appears bemused by the rabbits and that she does not appear intimidated,

threatened or uncomfortable. The Board noted that some members of the community may find the rabbits' behaviour unsettling however the Board considered that the advertisement does not depict any behaviour which could be considered a breach of the Code.

The Board determined that the advertisement did not breach Section 2.2 of the Code as it does not depict or condone violence.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.