



CASE REPORT

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| 1. Complaint reference number | 03/10 |
| 2. Advertiser | P&N Beverages |
| 3. Product | Food & Beverages |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Gender - section 2.1
Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 10 February 2010 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a man's tattoo of a woman in a kimono coming to life in an animated form. The woman appears very agile and performs acrobatic and stunt like movements before swinging around a pole. In the closing scene the woman appears to kiss a skull.

THE COMPLAINT

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

The ad objectifies women and while she is going down the pole, she stops, and the skull's eyes grow wide and openly ogle at her chest, which as a female I find highly inappropriate.

This is completely unfit to be shown anytime children or even young teenagers could watch. It is a disgusting ad and when I found out that Home and Away was actually brought to us by this ad I felt like I had to say something. It is absolute filth and it is encouraging it's audience to act Wicked like a stripper! I want it off the air!

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

We refer to your email dated 6 January 2010 regarding complaints about the Wicked energy drink advertisement which the complainants believe is not suitable for broadcast.

The advertisement in question ("the Advertisement") begins with a shirtless man opening a bottle of Wicked energy drink. A drop of the drink falls on his chest which brings to life his tattoo, namely a geisha dressed in a kimono. The geisha is instantly transformed into an extroverted woman. The "wicked side" brought out by this drop of Wicked energy drink is then explored throughout the remaining vision in the Advertisement. Unrealistic depictions of the woman roaring at a tiger and riding a fire-breathing dragon are included, as well as treasure chests and skeletons that are alive. The final sequences of the Advertisement depict a snake which slowly slithers out of the chest. The woman begins to dance around the snake. The skull laughs and the woman grabs him and kisses him. We cut to a giant bottle of Wicked energy drink which appears in the middle of frame. Bluebirds bring a scroll into frame that reads "Bring out your wicked side". The dragon on the bottle reaches out and grabs one of the bluebirds.

P&N believes the Advertisement is suitable for broadcast and in accordance with the Code.

As regards to one complaint, Section 2.1 of the Code provides:

“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, sex, age, sexual preference, religion, disability or political belief.”

The transformation of the character from a peaceful kimono clad geisha to an aggressive action-figure is simply to portray the stark contrast brought about by Wicked energy drink. The hard rock music in the background elucidates this fact. In this regard, P&N does not believe that the Advertisement “discriminates against or vilifies” women. We specifically note the Oxford English Dictionary definition for “vilify” as meaning:

“lower in worth or value; make of little or less account; make morally vile; disgrace, dishonour; depreciate or disparage with abusive or slanderous language; defame, revile, speak evil of”

The Advertisement presents the woman in an action hero sense, rather than a “degrading” or “disgraceful” fashion. Her revealing clothing is merely a tactic to portray the stark contrast of her “wicked side”, rather than to objectify her as the complainant suggests. The heavy metal music in the background elucidates this fact.

As regards to the other complaint, P&N believes the Advertisement is in accordance with Section 2.3 of the Code. The Advertisement is classified PG for broadcast by the CAD. Its broadcast is therefore permitted during the PG classified program Home and Away on weekdays at 7.00pm.

Paragraph 3 of Appendix 4 of the Television Industry Code of Practice provides that material classified PG may contain careful presentations of adult themes or concepts, but must be mild in impact and remain suitable for children to watch with supervision. With regard to sex and nudity, visual depiction of and verbal references to sexual behaviour must be restrained, mild in impact and justified by the story line or program context. Restrained visual depiction of nudity is permitted, but only where justified by the storyline or program context. The depictions in the Advertisement are purely animated and entirely unrealistic. Moreover, the Advertisement does not include any sex, nudity, or partial nudity in the sense that she is wearing clothing no less revealing than one would see on a beach. We believe this is a suitable presentation under the guidelines.

The particular sketch referred to in one complaint is not within a sexual context. It is four seconds in total and concludes with the woman kissing a skull. We do not consider this presentation to be in breach of the classification provisions provided in the Television Industry Code of Practice for PG material. Furthermore, we note that the PG program, Home and Away, is an Australian drama series which is broadcast to a mostly adult audience. In fact, approximately 88% of the audience is now over 18 years of age with popularity highest amongst women aged over 25 years. In light of this information, we believe the Advertisement was presented in accordance with Section 2.3 of the 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 complainant's concerns that the advertisement is overly sexualised and not appropriate to be viewed by teenagers.

The Board noted the advertiser's response and considered whether the advertisement was in breach of section 2.3 of the Code.

Section 2.3 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 was for the sale of a drink and that the target audience was teenagers. The Board noted that the images are animated and that the woman is briefly depicted swinging around a pole and kissing a skull. The Board considered that the woman depicted in the advertisement was depicted in a strong, athletic and super hero type manner which would appeal to the target audience. The Board considered that the images in the advertisement were unlikely to be taken as more than mildly sexualised by most members of the community. The Board noted that the advertisement is shown programming that is not attractive to young children. The Board considered that the advertisement did depict sexuality with sensitivity to the relevant audience and that it did not breach section 2.3 of the Code.

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