



Case Report

1	Case Number	0342/10
2	Advertiser	Cadbury Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	11/08/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.3 - Sex/sexuality/nudity Treat with sensitivity to relevant audience

DESCRIPTION OF THE ADVERTISEMENT

A puppet princess is sitting at a bar. Above her head is a sign reading "Enchanted Tales Inner Beauty" which disappears as a puppet frog lifts himself up on to a seat beside her. The frog asks if she is Kate44, to which the princess replies, "Hotguy21? Well you don't look anything like your picture, mm?" The frog replies that he is currently under a spell. The princess takes a Pascall Eclair out of a bag and talks about how it is what is on the inside that counts - seemingly referring to both the éclair and the frog.

A fly passes over their heads and the frog extends his tongue to eat it. The princess looks impressed and suggests to the frog that they leave, so the frog says he will get a cab.

A male voiceover says, "Pascall lollies for Grown Ups".

THE COMPLAINT

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

Using sexual innuendo to sell childrens lollies is stupid and in very bad taste

THE ADVERTISER'S RESPONSE

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

Cadbury takes all complaints seriously, consistent with our business principles of acting fairly and responsibly. It is never our intention to cause any offence or misunderstanding to any member of the community through our marketing activities. Accordingly, we have sought to give detailed consideration to this recent complaint in order to provide a comprehensive and appropriate response.

While we are concerned that the Pascall Éclairs TVC has caused offence to the complainant, for the reasons outlined below, we do not consider that the Pascall Éclairs TVC fails to portray sex, sexuality or nudity with sensitivity to the relevant audience and programme time zone. As such, we do not consider that the Pascall Éclairs TVC breaches section 2.3 of the Code. We also do not consider that the Pascall Éclairs TVC breaches the AANA Advertising and Marketing Communications to Children or the AANA Food and Beverages Marketing Communications Code.

The Pascall Éclairs TVC was launched as part of the broader Pascall “Lollies for Grown-Ups” campaign. Cadbury has developed a campaign specifically targeted at adults after research indicated that adults form a large part of the consumer base for Pascall confectionery. The campaign is based on the insight that many adult consumers have grown up with Pascall confectionery and still enjoy the products as much as they did when they were children. The nostalgic themes of the advertisements (e.g. fairy tales) were chosen for this purpose and are given a suitably modern, adult twist.

The Pascall Éclairs TVC features a beautiful princess and a frog (both puppets) and places them in a modern internet dating scenario. It depicts a princess at a bar waiting for her date to arrive. The princess looks disappointed when a frog arrives as he is not prince she was expecting. The princess comments on the fact that the frog doesn’t look anything like his profile picture and seems to be a little disheartened. She then reaches into her bag and takes out a bag of Pascall Éclairs stating, “well it’s what’s on the inside that counts”. The comment is directed both at the frog and at the Pascall Éclair which has a hidden chocolate centre. Just then, a fly buzzes past. The frog flicks out his tongue to catch it. This catches the princess by surprise and she suddenly seems interested in the frog. She bats her eyelids stating “shall we get out of here?” to which the frog responds that he’ll get a cab. The Pascall “Lollies for Grown Ups” logo is then lowered into the frame.

The driving concern of the sole complaint received by the ASB appears to be that “using sexual innuendo to sell children’s lollies is stupid and in very bad taste”. However, the Pascall Éclairs TVC, as part of the wider “Lollies for Grown Ups” campaign, is targeted at adults rather than children. This is reflected in:

- the “Lollies for Grown Ups” logo which is lowered into the frame;*
- the adult themes (i.e. the bar setting with cocktail glasses and internet dating); and*
- the language used in the TVC, including references to “profile picture” and internet profile names such as “Kate44” and “HotGuy21” (i.e. implying that these are “adult” characters).*

The Pascall Éclairs TVC is intended to be light-hearted and humorous play on the conventional fairy tale and would be seen by most people in the community as such. The part of the advertisement where the princess suggests to leave the venue and the frog character decides to leave the bar together, is very restrained and mild in impact. The Pascall Éclairs TVC does not and was never intended to portray sex or sexuality, except in a very subtle undertone and in our view, it is highly unlikely that young viewers would understand or be offended by any sexual connotation. The fact that the Pascall Éclairs TVC features puppets as popular fairy tale characters also renders any sexually suggestive material even milder in impact.

For these reasons, we submit that the Pascall Éclairs TVC does not breach section 2.3 of the Code.

We also do not consider that the Pascall Éclairs TVC breaches any part of the AANA Code of Advertising and Marketing Communications to Children as the Pascall Éclairs TVC does not constitute “Advertising or Marketing Communications to Children”. Having regard to the theme, visuals and language used in the Pascall Éclairs TVC as discussed above, it is clear that the Pascall Éclairs TVC is not directed primarily to children.

The Pascall Éclairs TVC was approved by Commercials Advice (“CAD”) with a 'PG' rating. A 'PG' rating means that the commercial may be broadcast at any time except during P and C (Children's) programs or adjacent to P or C periods. Importantly, the Pascall Éclairs TVC is only broadcast in these PG classification zones.

The Pascall Éclairs TVC was not rated, M, MA or S by CAD, which further reinforces the view that the Advertisement does not depict sexual innuendo that would clearly be inappropriate to be shown at PG classification zones. As a PG rated advertisement, the advertisement has been deemed to contain only careful representations of adult themes and concepts that are not only mild in impact, but are even suitable for children to view with supervision. While the campaign was never targeted at a young audience, the fact that CAD has rated it as PG testifies that the campaign treats sex, sexuality and nudity with sensitivity, as outlined by the AANA Code of Ethics.

The Pascall Éclairs TVC has aired approximately 708 times (key no. CPEA/30/932R) on TV nationally. It has aired in a range of [prime time high reaching TV programs] and we estimate that it has been viewed by 6.65 million people (TTPPL).

We understand that the ASB has, to date, only received one complaint about the Pascall Éclairs TVC. In light of the number of times the advertisement has been aired, this suggests that the advertisement is not offensive to the general community and does not offend against prevailing community attitudes.

Cadbury is a responsible advertiser. All advertising is subject to numerous internal reviews, including by our Legal department and our Corporate Communications team, to ensure that it complies with all legal and ethical requirements, including the Code and our Cadbury Global Marketing Code of Practice.

In summary, we reiterate that Cadbury treats any complaint with the greatest of respect and always endeavours to fully understand what is driving the concern.

However, our considered assessment is that the Pascall Éclairs TVC does not fail to portray sex, sexuality and nudity with sensitivity to the relevant audience and programme time. We submit that the Pascall Éclairs TVC does not in any way breach section 2.3 or any other section of the Code, the AANA Advertising and Marketing Communications to Children Code or the AANA Food and Beverages Marketing Communications 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 concern that the advertisement uses sexual innuendo to sell a product to children.

The Board considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states that advertising or marketing communications shall treat sex,

sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.

The Board viewed the advertisement and noted the advertiser's response that the advertisement is classified PG and was screened during appropriate programming and targeted at the appropriate audience.

The Board noted the advertisement featured puppets playing the role of the fairytale characters of a princess and a frog. The Board noted the double entendre used in the dialogue between the princess and the frog and considered that the dialogue and images are not sexually explicit and the impact is lessened by the fact that the dialogue is held by puppets. The Board also considered that most members of the community would understand that the advertisement was humorous and intended to be lighthearted and funny. The Board considered that the double entendre was mild and was not likely to be understood by children.

The Board noted that the product is aimed at adults and that the words "Pascall lollies for Grown ups" are both seen and heard during the advertisement. The Board noted the cartoon style of the advertisement would be attractive to children. However it determined that the placement of the advertisement and the overall tone and language used would not be attractive to and is not directed to children. On this basis the Board determined that neither the AANA Code for Advertising for Children nor Part 3 of the AANA Code for Food and Beverages applied to the advertisement.

The Board determined that the advertisement did treat sex with sensitivity to the relevant audience and therefore determined the advertisement 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.