



Case Report

1	Case Number	0351/15
2	Advertiser	Johnson & Johnson Pacific Pty Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/09/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Social Values
- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement depicts various women engaging in a range of different every day scenarios, such as: jogging; climbing a fence; sitting on the couch with friends; riding a bike through city traffic; packing a suitcase; twisting in a dance class; getting dressed; tying a shoe; sitting on a bed; sitting on a friend's shoulders at a concert; and bumping a car door with their body to close it. In each of these scenarios, the women are filmed from behind in medium close-up.

The Advertisement also contains a pack shot and animated product illustration.

THE COMPLAINT

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

*The advertising is crass and indiscrete. No matter what you think of the array of backsides the content is about showing women's backsides so you can see there is no sign of blood. If men had this issue would they be treated in the same way?
This is suggestive and borderline porn.*

THE ADVERTISER'S RESPONSE

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

Advertising Standards Bureau Complaint Reference number 0351/15

We have considered the Complaints and the relevant provisions of the Australian Association of National Advertisers Code of Ethics (the Code) and the Code for Advertising & Marketing Communications to Children (the AMCC) and submit that the Carefree 'don't worry' TVC advertisement (the Advertisement) the subject of the Complaints complies with the Code and the AMCC for the reasons set out in this letter, and that the Complaints should therefore be set aside.

Please be advised that the Advertisement has been approved by Commercials Advice Pty Ltd (CAD), as evidenced by the approval references and ratings:

- *W1TERTCA – rated W (30 second version); and*
- *W1T7LTCA – rated W (15 second version).*

According to these designations by CAD, the Advertisement is deemed to be “mild in impact” and not to contain any matter “likely to be unsuitable for children to watch without supervision”. ‘W’ rated commercials may be broadcast at any time, except during children’s and pre-school children’s shows or adjacent to children’s or pre-school children’s programs. Complaint A notes that the Advertisement was screened at two instances after 8:00pm.

RESPONSE TO THE COMPLAINTS

The ASB has referred us to sections 2.1 (discrimination / vilification), 2.2 (exploitative / degrading), 2.3 (violence) 2.4 (sex / sexuality / nudity), 2.5 (language) and 2.6 (health / safety) of the Code and to the AMCC. We address each of these sections of the Code and the AMCC below.

Sex / sexuality / nudity

Section 2.4 of the Code states:

“Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.”

The Complaints appear to suggest that the Advertisement depicts the sexualisation of women. We submit that this is not the case. On the contrary, the Advertisement depicts women who are fully clothed (in regular everyday wear), engaging in normal day-to-day activities. The tone of the Advertisement is upbeat and the women are by no means depicted in a provocative or sexualized manner.

The purpose of the Advertisement is to depict everyday scenarios and experiences in which the advertised product is suitable and beneficial to the target audience (being women who have their period). The Advertisement focuses indirectly on the product, by focusing on the

general part of the body to which the product relates. This focus is designed to connect the visual element of the Advertisement to the tagline ('we focus on down there, so you can focus on out there'). The focus of the Advertisement reflects the focus of the product and its effectiveness, allowing the user to pursue day-to-day activities without worrying about issues of leakage.

On that basis, we submit that the Advertisement does not depict any insensitive nudity or sexuality.

Exploitative / degrading

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."

We submit that the Advertisement does not exploit or degrade any individual or group of people. In particular:

- the women depicted are not portrayed in a sexually alluring manner and are fully clothed; and*
- the target audience is clearly women.*

Therefore the imagery will not sexually appeal in a manner which is exploitative or degrading of any individual or a group of people.

Complaint B queries whether the Advertisement would treat the subject matter in the same way if the issue related to men. As mentioned in section 3(a), the reason that the visual focus of the Advertisement is on the women's bottoms depicted from behind, is in order to link the visual content to the tagline, "we focus on down there, so you can focus on out there" (our emphasis), and also to present women with a range of everyday scenarios in which the product will be beneficial to them. By focusing on the part of the body to which the product relates, it is expected that the target audience will be better able to connect with and actively consider how the advertised product might be beneficial to them.

The product is for everyday women and periods are a normal part of everyday life – we respectfully submit that the Advertisement presents these matters in a way that is designed to appeal to women, not exploit or degrade them.

Discrimination / vilification

Section 2.1 of the Code states:

"Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief."

For the reasons outlined at 3(b) above, we submit that the Advertisement does not discriminate against or vilify any section of the community and is not demeaning or

disrespectful to any group of people.

Violence

Section 2.3 of the Code states:

“Advertising or Marketing Communications shall not present or portray violence unless it is justifiable within the context of the product or service advertised.”

The Complaints do not make any allegations regarding portrayals of violence and we submit that the Advertisement does not portray any form of violence.

Language

Section 2.5 of the Code states:

“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.”

The Complaints do not make any allegations of use of inappropriate language and we submit that the Advertisement does not contain any inappropriate language.

Health / safety

Section 2.6 of the Code states:

“Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”

Section 3.1 of the Code provides that:

“Advertising or Marketing Communications to Children shall comply with the AANA’s Code of Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which AANA’s Code of Advertising & Marketing Communications to Children applies.”

We submit that the Advertisement is not directed towards children; it is targeted to women and young adult females as clearly portrayed by the demographic featured in the Advertisement and the activities they are engaged in. Therefore, in our view, the AMCC does not apply in place of section 2.6 of the Code.

The Complaints do not make any allegations of contraventions of prevailing community standards on health and safety and we submit that the Advertisement does not contain any contraventions of prevailing community standards on health and safety.

4. CONCLUSION

For the reasons set out above, we strongly submit that the Advertisement complies in all respects with the provisions of the Code (including the Codes incorporated therein), and in

particular Sections 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the Code.

We respectfully ask the ASB to set aside the Complaints.

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 complainants’ concern that the advertisement is sexist and offensive in its focus on women’s bottoms, and the images are borderline porn.

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 this television advertisement depicts various women participating in a variety of everyday activities with the focus on the tight fitting clothing they are wearing and the fact that their sanitary pads are not visible.

The Board acknowledged that some members of the community would prefer that this type of product not be advertised on television and noted it had previously dismissed complaints about similar advertisements in cases 0244/12, 0402/12, 0069/14 and 0403/14. The Board noted that feminine hygiene products are legally allowed to be advertised and considered that the Board’s determination is based on the content of the advertisement and not the nature of the product advertised.

The Board noted that the advertisement is clearly suggesting a product which can remedy a problem many women experience when menstruating, that of the sanitary pad being visible or leaking, and considered that the focus on the women’s clothed bottoms is to highlight how unobtrusive the product is, and is not inappropriate in this context.

The Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of their gender.

The Board determined that the advertisement did not breach Section 2.1 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 the complainant's concern that the content of the advertisement is 'borderline porn'. The Board noted the images of the women in the advertisement and the focus on their bottoms and considered that the focus is on the product; that there is no nudity and, in the Board's view, the women are all appropriately dressed. The Board noted the activities the women in the advertisement are engaging in and considered that their actions are not sexual or designed to be sexualised. The Board considered that most reasonable members of the community would not find the content of the advertisement to be comparable to pornographic material.

The Board noted the advertisement had been rated 'W' by CAD which means it would be seen by children but 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 complaints.