



Case Report

1	Case Number	0355/11
2	Advertiser	National Foods Limited
3	Product	Food and Beverages
4	Type of Advertisement / media	Outdoor
5	Date of Determination	28/09/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

America's Next Top Model runway coach and judge J Alexander is shown in a bow tie and suit holding a Fruche yoghurt.

THE COMPLAINT

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

Using a black man dressed as a golliwog is highly racist and offensive.

THE ADVERTISER'S RESPONSE

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

*We have considered the complaint and, for the reasons set out below, consider that the complaint should be dismissed.
The advertisement*

This advertisement was used on bus shelters, in magazines, online and on digital panels in shopping centres across Australia. We also used the image from the advertisement in media releases and in our media packs that were distributed to the media.

The frûche advertisement shows frûche brand ambassador J. Alexander on a stylised, fantasy fashion runway holding an oversized frûche container (frûche Advertisement). It promotes frûche as a stylish, fashion-conscious brand and the chance for frûche consumers to win a style session with J. Alexander. The frûche Advertisement was timed to coincide with Melbourne Spring Fashion Week and thus has a fashion theme. J. Alexander was also flown to Australia to promote frûche in person at a number of related events as part of this campaign. The wardrobe worn by J. Alexander in the frûche Advertisement was chosen by him, and the bow tie itself was actually made by J. Alexander.

The complaint

The complaint alleges that the frûche Advertisement is “highly racist and offensive” as it depicts a “black man dressed as a golliwog”. The ASB has therefore raised this issue under section 2.1 of the AANA Code of Ethics (Code of Ethics), which requires that advertisements do 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, [or] nationality...” This letter sets out why we consider that the frûche Advertisement does not portray people or depict material that discriminates against or vilifies any person.

Addressing the complaint

We consider this complaint to be without merit for the following reasons.

- 1. J. Alexander is a known celebrity who appears as himself in the frûche Advertisement. He is the runway coach on the television show "America's Next Top Model" (see [http://en.wikipedia.org/wiki/J._Alexander_\(model\)](http://en.wikipedia.org/wiki/J._Alexander_(model))) and is known for his flamboyant clothing.*
- 2. A “golliwog” is defined by the Oxford Dictionary as “a soft doll with bright clothes, a black face and fuzzy hair” and by the Random House Dictionary as “a grotesque black doll”. The image of J. Alexander in the frûche Advertisement does not meet this definition as J. Alexander is clearly well dressed with an over the top hair style and does not resemble a golliwog. He is dressed flamboyantly but stylishly, not grotesquely. He conveys a confident, individual sense of style in relation to the brand, which is the intent.*
- 3. The scene depicted in the frûche Advertisement is a deliberately ‘larger than life’ scene with J. Alexander holding an oversized frûche container in the context of a fashion runway setting. A golliwog would be completely at odds with such a context.*
- 4. The clothing worn by J. Alexander in the frûche Advertisement, including the bow tie, was created by him and chosen by him to be worn in the advertisement. It reflects his typically flamboyant, over-the-top style and is consistent with the setting being slightly unreal and imagined. The clothes are not similar to or reminiscent of golliwog characters and there was no intention to depict J. Alexander as a golliwog. To the contrary, he is recognisably J. Alexander for those who know him through his long association with fashion and "America's Next Top Model " TV show.*
- 5. Nothing in the frûche Advertisement indicates or implies that J. Alexander is being represented as a golliwog. There is no express reference to the word "golliwog" and no creation of a context that would suggest that J. Alexander is dressed to depict a golliwog.*
- 6. We also consider the fact that the ASB has only received one complaint, and we have received none, about the frûche Advertisement in circumstances where (on our agency's estimate) it has been viewed by approximately 7.2 million people on numerous occasions (including online, on posters and in magazines), is indicative that reasonable members of the audience understand that the frûche Advertisement is not intended to be, nor is, discriminatory, racist, vilifying or offensive.*

In view of the above, we respectfully submit that the complaint should not be upheld as the frûche Advertisement complies with all of the provisions of the Code of Ethics, including the provision raised in the complaint. The frûche Advertisement is not discriminatory, racist or offensive. We also consider that neither the AANA Code for Advertising and Marketing Communications to Children nor the AANA Food and Beverages Marketing and Communications Code are breached by the frûche Advertisement.

Conclusion

For the reasons set out above, we do not consider that the frûche Advertisement is in any way discriminatory, racist, vilifying or offensive nor is it in breach of any of the AANA Codes. Thank you for taking the time to consider our response, we look forward to receiving the ASB's determination in this matter.

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 highly racist and offensive.

The Board viewed the advertisement and considered the advertiser's response to the complaint.

The Board considered whether the advertisement was in breach of Section 2.1 of the Code. 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 the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.”

The Board noted that the man in the advertisement is a runway coach and judge on America’s Next Model and that the text on the advertisement says, “Win a \$15,000 style session with J. Alexander”. The Board considered that the depiction of a dark skinned man wearing a suit and over sized bow tie does not equate to a depiction of a golliwog. The Board noted the advertiser’s response that J. Alexander is wearing his own clothes and considered that he is portrayed in a manner which is flamboyant and over-stylised and not in a manner which would suggest he is meant to represent a golliwog.

The Board considered that the advertisement does not contain any implicit or explicit references to a golliwog.

The Board determined that the material depicted did not discriminate against or vilify any person or section of the community on account of race and did not breach Section 2.1 of the Code.

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