



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0359-20
2. Advertiser :	Mondelez International
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	16-Dec-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This advertisement features a child in the back seat of a car singing the lyrics to a song on the radio and a woman driving. As the vehicle stops at a red traffic light at the intersection, another car pulls up with a woman and a young girl in the back. The woman notices the music coming from the car next to her and raises her eyebrow. The woman in the first car turns up the music and joins in rapping with the child. In the second car, the young girl in the back nods her head along to the beat.

THE COMPLAINT

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

It sends a dangerous message that it's OK to rap with sweets in mouth in a vehicle. Children can and do choke. Also "mother" condones action by turning up volume of music in car.

I wish to make a formal complaint regarding your television commercial currently being promoted nationally. I formally request this commercial be pulled from all media. I believe you are in breach of the advertising standards. While your commercial is fun, the environment in which it is set is completely unacceptable. This commercial shows two female drivers clearly distracted behind the wheel of your vehicles. While one may argue that these drivers are stopped, as their eyes veer from the view of the road, ANY DISTRACTION CAN BE FATAL. Street lights may change, a child could run out



into the road, or they are holding up traffic while not watching the surrounding traffic and conditions. This week is National Road Safety Week. More than 1200 precious lives are lost annually on our roads.

Why do I care??? My darling daughter died as a result of drivers inattention. Since that awful day, my husband and I have partnered with the NSW State Government as Towards Zero Ambassadors. We share our journey because desperately do not want nother family to walk this gut wrenching path.

Please remove this commercial immediately. Also, your advertising agency should be aware of advertising standards. Make your commercials fun, but please do not be so careless as to promote your product in such a setting. At the moment, youre product is endorsing poor driver behaviour.

The add is both racist and sexist.

Firstly the woman playing loud rap music from her car, was of a dark more tanned appearance, with dark curly hair. The women in the opposite car who is clearly 'judging' the first women has much lighter coloured skin, blonde hair and pearl earrings. It is uncomfortable to watch. It is clear the advertisement has caste traditional looking stereotypes for each role - the upper class snob vs the relaxed rapping 'loose' mother. Furthermore the advertisement is sexist. Is this all women can do- sit in there cars side eyeing and judging each other? The whole tone, from casting to dress is set to create these ridiculous stereotypes.

Upon observing the elderly woman in the adjacent vehicle, the woman in the vehicle containing the child (presumably the mother) smirks at the elderly woman a raises the volume of the rap music to an elevated level clearly in an attempt to intimidate the elderly woman. During the process the 'mother' looks at the child as if to indicate 'it's OK and funny to treat others in this manner '.

The manner in which this advertisement is delivered displays bullying, intimidation and a total disrespect for the elderly woman in the opposing vehicle . The scenario takes place at a set of traffic lights and the bullying behaviour of the 'adult' in the presence of the child sets an extremely poor example for society in general. Apart from the moral decay portrayed, the concern I have is children will perceive this behaviour as OK and proceed with treatment of others in a similar manner. The fact the adult initiates this disgraceful behaviour is disturbing to say the least!

THE ADVERTISER'S RESPONSE

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

COMPLAINT 1:

REASON FOR CONCERN: *It sends a dangerous message that it's OK to rap with sweets in mouth in a vehicle. Children can and do choke. Also "mother" condones action by turning up volume of music in car.*



RESPONSE FROM MONDELEZ INTERNATIONAL:

In preparing our response below we have been conscious of Section 2 of the AANA Advertiser Code of Ethics, but not limited to the following sections:

- 2.1 - Discrimination or vilification
- 2.2 - Exploitative or degrading
- 2.3 – Violence
- 2.4 - Sex, sexuality and nudity
- 2.5 – Language
- 2.6 - Health and Safety
- 2.7 - Distinguishable as advertising

At Mondelez International, we are committed to providing consumers that choose our products with safe, high quality foods. We work hard to ensure we meet this commitment to the millions of Australians that enjoy our products every day.

We have a global policy that governs the food safety of all products we sell. This policy – which includes a comprehensive key assessment process called a Design Safety Analysis – is designed for products distributed in the market to be deemed safe under reasonable, foreseeable use conditions. We design and manufacture products that must not create an unreasonable risk of serious injury or death (create a “substantial product hazard”) or violate a mandatory safety standard. The product referenced in this ad has completed the required Design Safety Analysis process to ensure compliance. This includes a choking hazard assessment that looks at a range of factors, including the size and texture of the product.

Despite selling millions of bags of the product featured in the advertisement since the beginning of 2019, our consumer care team has not received a single complaint related to the product presenting any kind of choking hazard.

COMPLAINT 2:

REASON FOR CONCERN: I wish to make a formal complaint regarding your television commercial currently being promoted nationally. I formally request this commercial be pulled from all media. I believe you are in breach of the advertising standards. While your commercial is fun, the environment in which it is set is completely unacceptable. This commercial shows two female drivers clearly distracted behind the wheel of your vehicles. While one may argue that these drivers are stopped, as their eyes veer from the view of the road, ANY DISTRACTION CAN BE FATAL. Street lights may change, a child could run out into the road, or they are holding up traffic while not watching the surrounding traffic and conditions. This week is National Road Safety Week. More than 1200 precious lives are lost annually on our roads. Why do I care??? My darling daughter died as a result of drivers inattention. Since that awful day, my husband and I have partnered with the NSW State Government as Towards Zero Ambassadors. We share our journey because desperately do not want another family to walk this gut wrenching path. Please remove this commercial immediately. Also, your advertising agency should be aware of advertising standards. Make your commercials fun, but please do not be so



careless as to promote your product in such a setting. At the moment, your product is endorsing poor driver behaviour.

RESPONSE FROM MONDELEZ INTERNATIONAL:

First and foremost, we would like to acknowledge the tragic loss of the complainant's daughter as the result of a driver's inattention, and the important role now played by her parents as Towards Zero Ambassadors.

Mondelez International is cognisant of ensuring the advertising we develop promotes safe practices. We partner with creative agencies that are focused on ensuring this commitment is followed in developing and producing our creative materials.

We - along with the agency that developed this advertisement, Ogilvy Melbourne - followed a comprehensive range of processes and protocols to ensure the advertisement complies with safe driving practices.

The advertisement has been reviewed and approved in Australia through the CAD process to ensure it complies with advertising codes and standards. This approval has been attached to our response submission.

In addition, Ogilvy Melbourne ensured the advertisement complied with the standards for the Federal Chamber of Automotive Industries Advertising Code which is generally only used for motor vehicle advertising.

As well as ensuring compliance with these Codes, we took additional actions in producing the advertisement to ensure the promotion of safe driving practices. For example:

- Both cars come to a complete stop at the intersection, with a visible red light, reinforcing the importance of complying with road signals.*
- Both drivers have both hands on the steering wheel, except for a brief moment when one motorist reaches across to increase the volume of the radio. The driver then returns to having both hands on the steering wheel. This was checked with Queensland Police representatives who were present on-site for the filming to ensure road safety compliance.*
- Both vehicles remain stationary until it is clearly safe to move away.*
- Children are seen in safety restraints appropriate for their age.*
- All drivers and passengers are wearing seatbelts.*
- Both drivers look ahead throughout the advertisement, limiting their head and eye movement away from the road for as short a time as possible. One mother uses her rear-vision mirror to look at the child rather than turning her head. The other mother looks sideways to understand her surroundings (ie. the source of the loud music). They then return their attention to the road ahead.*
- A full third-party safety and risk assessment was completed prior to filming to ensure the drivers featured in the advertisement were conducting themselves in a way that did not compromise their ability to safely control their vehicle.*



- *Additionally, a third-party safety supervisor was on-set throughout filming to ensure the behaviours and actions of the cast members did not compromise their ability to competently drive their vehicles, remain attentive to their surroundings, and ready the vehicle to move away from the intersection.*
- *The safety credentials of the two vehicles featured in the advertisement were considered in selecting the preferred makes and models. They are recognisably made by leaders in automotive safety.*

In summary, we have invested significant time and resources to ensure the advertisement promotes safe driving practices. We're committed to ensuring we promote safe practices in any communications we deliver to the public, and are confident this advertisement meets – and exceeds - this commitment.

COMPLAINT 3:

REASON FOR CONCERN: The ad is both racist and sexist.

Firstly the woman playing loud rap music from her car, was of a dark more tanned appearance, with dark curly hair. The woman in the opposite car who is clearly 'judging' the first woman has much lighter coloured skin, blonde hair and pearl earrings. It is uncomfortable to watch. It is clear the advertisement has caste traditional looking stereotypes for each role - the upper class snob vs the relaxed rapping 'loose' mother.

Furthermore the advertisement is sexist. Is this all women can do- sit in there cars side eyeing and judging each other? The whole tone, from casting to dress is set to create these ridiculous stereotypes.

RESPONSE FROM MONDELEZ INTERNATIONAL:

Mondelez International is committed to diversity and inclusion. This relates to all aspects of how we do business, including through the extensive advertising and promotional platforms we use every day.

Our business is taking real action to elevate our diversity and inclusion initiatives and make meaningful impacts in the area of racial equity. We have 13 public commitments on racial equity for which we can be held to account. These include a promise to spend \$1.4 billion with minority and women owned businesses by 2024, the appointment of a Global Diversity and Inclusion Officer accountable to the CEO and Board, and "mobilise brands and marketing partners to drive change, equity and inclusion."

An example of our commitment to taking real action in this space was our highly successful 'Symbol For All' campaign. The Symbol For All was launched by Mondelez International under our Cadbury ANZ brand to push back against xenophobia and racism. This campaign saw our business partner with a group of artists and designers from a range of backgrounds to develop a symbol to use in challenging hate speech.

The campaign promoting equality and diversity reached over 32 million people in 15 countries, and resulted in a reduction of 30% in negative sentiment related to Halal



posted to our social media channels. You can learn more about this campaign here: <https://www.ogilvy.com.au/Our-Work/Cadbury-symbol>

With this business commitment to diversity and equity in mind, the selection of actors featured in all of our advertisements - including this The Natural Confectionery Company advertisement - reflects the diversity of the consumers that enjoy our products. The mother and child singing along to the rap song are portrayed in a positive way, and there was no casting decision made to seek specific ethnicities. The fact that one actor has darker skin tones than the other is purely coincidental, and this is the only complaint or feedback we have received on this topic in relation to this creative.

The experience of the mother and daughter is a positive and joyful one that they share with the audience, and the overall creative is designed to be something viewers can relate to. This is underscored by the fact that the children in both cars are clearly enjoying the music despite the fact they may come from different families and backgrounds.

In relation to the behaviour and expressions of the two mothers, there's a response from both of them to the perceived negative parental behaviour of the other; the response is not limited to one over the other.

Our messaging for this advertisement is built around the platform of, 'Go with the Real', which is designed specifically to make people feel included and comfortable with their individual parenting choices, without the feeling of parental guilt.

In relation to the appearance of the two mothers, they are wearing different clothes that you could realistically expect different mothers to be wearing at school pick-up, on the way to sport training or any other reason for commuting in a suburban street. They are both driving cars of similar value and standing. They both adhere to safe driving practices.

In summary, the advertisement features actors that reflect the diversity of our consumers, and the commitments we make as a business to use our platforms to promote diversity and inclusion.

Additional response

Mondelez International is committed to diversity and inclusion. This relates to all aspects of how we do business, including through the extensive advertising and promotional platforms we use every day.

The actors selected for this advertisement are both of a similar age – 38 and 44 respectively. They are portraying mothers of children of a similar age. We therefore do not consider the mother in the adjacent vehicle as being elderly, nor is she portraying an elderly character.

In relation to the behaviour and expressions of the two mothers, there's a response from both of them to the perceived negative parental behaviour of the other; the



response is not limited to one over the other. There is no conduct in the advertisement that we would consider as bullying, intimidation or disrespect.

Both mothers are wearing different clothes that you could realistically expect different mothers to be wearing at school pick-up, on the way to sport training or any other reason for commuting in a suburban street.

Our messaging for this advertisement is built around the platform of, 'Go with the Real', which is designed specifically to make people feel included and comfortable with their individual parenting choices, without the feeling of parental guilt. It is a positive message

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement:

- is sexist in its suggestion that all women do is judge each other
- is racist in its stereotyping of darker-skinned women being "loose" and white women being stuck-up
- depicts a young woman treating an older woman with disrespect
- condones the unsafe behaviour of eating and singing which could be a choking hazard
- endorses poor driving behaviour by showing driver distraction
- depicts bullying behaviour.

The Panel viewed the advertisement and noted the advertiser's response.

Section 2.1: Advertising or Marketing Communication 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, gender, age, sexual preference, religion, disability, mental illness or political belief.

The Panel noted the AANA Practice Note which provides guidance on the meaning of:

- Discrimination - unfair or less favourable treatment
- Vilification - humiliates, intimidates, incites hatred, contempt or ridicule
- Gender - male, female or trans-gender characteristics.
- Race - viewed broadly this term includes colour, descent or ancestry, ethnicity, nationality, and includes, for example, ideas of ethnicity covering people of Jewish or Muslim origin
- Age - based on a person's actual age (i.e. from the date they were born) and not a person's biological age (i.e. how old they may appear)

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of gender?



The Panel noted the complainants' concern that the advertisement is sexist in its suggestion that all women do is judge each other.

The Panel considered that a negative gender stereotype does exist that women are judgemental, especially towards other women.

However, the Panel considered that in this advertisement the reaction of the woman to the music was a depiction of a person having different tastes in music, and not a depiction which suggests that all women are judgemental and treat each other unfairly.

Similarly, the Panel considered that the reaction of the other woman to the first woman's behaviour is a depiction of the woman being comfortable with her own music taste and parenting style, and is not a depiction which shows the woman being judgemental or negative.

Overall, the Panel considered that the advertisement did not depict the women, or women in general, as deserving of unfair or less favourable treatment or in a way which humiliates, intimidates, incites hatred, contempt or ridicule on the basis of gender.

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of race?

The Panel noted the complainants' concern that the advertisement is racist in its stereotyping of darker-skinned women being "loose" and white women being "stuck-up".

The Panel noted the advertiser's response that the advertisement reflects the diversity of their consumers and the women were not cast to be any particular ethnicity.

Similar to the discussion under gender, the Panel considered that the advertisement depicts the women as having different tastes in music and parenting styles and this is not a reference to their race. The Panel considered that the women's races are not referred to or highlighted in the advertisement.

The Panel considered that the advertisement does not depict the women, or women in general, as deserving of unfair or less favourable treatment or in a way which humiliates, intimidates, incites hatred, contempt or ridicule on the basis of race.

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of age?



The Panel noted the complainants' concern that the advertisement depicts a young woman treating an older woman with disrespect.

The Panel noted the advertiser's response that both women portrayed were of a similar age and were shown to have children of similar ages.

The Panel considered that there was no real age difference between the two women and the advertisement did not contain any stereotypes associate with age.

Section 2.1 conclusion

Finding that the advertisement did not portray material in a way which discriminates against or vilifies a person or section of the community on account of gender or race, the Panel determined that the advertisement did not breach Section 2.1 of the Code.

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Does the advertisement depict unsafe behaviour in relation to eating and rapping?

The Panel noted the complainants' concern that the advertisement condones the unsafe behaviour of eating and singing which could be a choking hazard.

The Panel noted the advertiser's response that the product has been assessed to ensure that it is not a choking hazard.

The Panel considered that eating and talking, or singing, are common behaviours which are unlikely to lead to harm. The Panel noted that the girl is depicted taking a bite of the lolly and is not shown throwing it into her mouth or attempting to swallow it hole.

The Panel considered that the depiction of the girl eating and rapping at the same time was not a depiction which would be considered unsafe by most members of the community.

Does the advertisement depict unsafe driving behaviour and driver distraction?

The Panel noted the complainants' concern that the advertisement endorses poor driving behaviour by showing driver distraction

The Panel noted the advertiser's response that the advertisement depicts both cars stationary, the drivers' hands don't leave the wheel, and both drivers are shown to look primarily at the road with only quick glances at their surroundings.

The Panel acknowledged that driver distraction is a significant safety concern in the community and that advertisers should take care that driving situations are depicted safely.



The Panel noted that one of the women briefly adjusts the volume on her stereo but that her hand returns to the wheel and she continues to watch the road ahead.

The Panel considered that the drivers are both seen to be attending to the road and their surroundings, and that they don't take their hands off the wheel or look away from the road for any significant period of time.

The Panel considered that the depiction of two drivers having a brief interaction while stopped was not a depiction which would be considered contrary to prevailing community standards on road safety.

Does the advertisement depict bullying?

The Panel noted the complainants' concern that the advertisement depicts bullying behaviour.

The Panel noted the advertiser's response that the advertisement depicts both women reacting to the others' perceived negative parenting behaviour and that there is no behaviour which could be considered bullying.

The Panel noted that the practice note for this section of the Code states:

"The age of the people depicted in an advertisement, their relationship to each other and the nature of the communication are relevant in determining whether an advertisement constitutes bullying and is contrary to Prevailing Community Standards. More care must be taken when the people depicted in an advertisement are Minors or if there is an unequal relationship between the people in the advertisement, e.g. student and teacher, manager and worker."

The Panel noted that both women are of a similar age and both are depicted as mothers with a child in the car. The Panel considered that the women are not shown to have an unequal relationship and there is no power imbalance between the two.

The Panel considered that the behaviour of the women in the advertisement does not constitute bullying and would not be contrary to prevailing community standards.

Section 2.6 Conclusion

The Panel considered that the advertisement did not contain material which would be contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Code, the Panel dismissed the complaints.