



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0361-21
2. Advertiser :	Uber Australia Pty Ltd
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	19-Jan-2022
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

The advertisement features a couple breaking up. The woman is throwing the man's possessions out the first floor window. He orders skinless chicken breast, broccoli and protein bars to get ripped so he can win his girlfriend back. She tells him that it's not going to work and he goes on to order frozen nuggets instead. She throws out his video game console and he also orders some tape to fix it.

THE COMPLAINT

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

domestic violence and this kind of criminal abuse ,can't be tolerated against men or anyone, and it isn't acceptable to promote criminal behaviour of this kind . I am a domestic violence survivor and women can't do this either, this ad shows criminal behaviour as acceptable and it isn't.

This is a glorification of domestic violence. If the genders were reversed, it would have never been made.

This ad is promoting domestic violence by creating the impression it is ok for a female to violently throw belongings over a balcony to smash to the floor below while the male partner stands there. If it was a female having her belongings thrown down to her it would have been banned immediately.



This is absolutely disgraceful and should be removed and not aired again. Domestic violence of any kind in any direction is absolutely abhorrent.

I feel this advertisement touches on domestic violence/abuse. She is destroying all his belongings and almost hits him. If this advertisement was a man throwing a lady's belongings out, more people would complain or be in an uproar about it. It's not a good message at all to anyone who has been through this type of abuse. It might seem like an innocent advertisement to some, but it really does touch on domestic violence. Others I've spoken to agree with me.

THE ADVERTISER'S RESPONSE

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

1. Response to issues raised in complaint

1.1 Advertisement does not serve to discriminate or vilify (section 2.1 of the Code)

The Advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of a defined attribute. In this regard, the Advertisement does not reference or depict:

(a) unfair or less favourable treatment towards any person or group on the basis of an attribute, including on the basis of gender; and

(b) treatment that humiliates, intimidates or incites hatred, contempt or ridicule of any person on the basis of an attribute, including on the basis of gender.

1.2 No reference to exploitative or degrading acts (section 2.2 of the Code)

(a) The Advertisement does not employ sexual appeal, or place focus on body parts, in a manner which is exploitative or degrading of any individual or group of people.

(b) No images of minors, or people appearing as minors, are used in the Advertisement.

1.3 Advertisement does not present or portray violence (section 2.3 of the Code)

(a) The Advertisement depicts a woman throwing a man's possessions out of an apartment window. The average member of the public would:

(i) not reasonably perceive this as a portrayal of violence; or

(ii) perceive this as a light hearted and humorous portrayal of a woman breaking up with a man, that is justifiable in the context and tone of the Advertisement.



(b) The style of the Advertisement is:

(i) light hearted and humorous in a tongue-in-cheek manner, including due to the way the man's order changes as the storyline unfolds;

(ii) humorously exaggerated and reminiscent of a movie-style breakup scene (with an onlooker and his/her pet watching on); and

(iii) intentionally unrealistic due to its exaggerated style and the interjecting lines to the camera.

(c) There is nothing in the Advertisement to suggest, expressly or impliedly:

(i) that the man has been physically harmed or that there is a threat of physical harm to him;

(ii) sexual violence has taken or will take place; or

(iii) that the couple has had a history of violence, such as domestic violence.

(d) The man is depicted as being sad and/or regretful, which is in keeping with the context of the storyline, but is clearly not depicted as being fearful of the woman. This is supported by:

(i) the relaxed manner in which he speaks to the camera;

(ii) the way he smiles when revealing his plan to win back his girlfriend; and

(iii) the apathetic and wry response of 'Okay, frozen nuggets' to Stephanie's line that he will not be winning her back, which is humorously juxtaposed against his initial, aspirational order and the conviction in his plan (which is immediately dissolved).

(e) The intention of the Advertisement is to highlight the utility of the Uber Eats platform as a solution to unusual or humorous predicaments, such as what to order for dinner when you have just gone through a breakup. This, together with the style, tone and script of the Advertisement, creates an element of absurdity and reinforces the overall impression that the Advertisement is intended to be interpreted in a light hearted manner.

(f) If the throwing of possessions were deemed to be violence (which, in any case, we consider it not to be), it is justifiable in the context of the Advertisement because:

(i) it is relevant to the storyline, which reinforces the overarching message that the Uber Eats platform can be used where you require grocery items to be delivered conveniently and quickly in situations of unexpected need;

(ii) it is presented in a light hearted and unrealistic manner;



(iii) it is not presented in a manner that is distressing or could reasonably be considered as condoning violence or portraying it as being acceptable;

(iv) it is appropriate for members of the intended audience, being adult grocery and alcohol consumers aged 18 - 54 years;

(v) the Advertisement is not targeted at and does not have any particular appeal to children and does not promote a children's product; and

(vi) there is no specific intent to present or portray violence.

(g) Further, for the reasons outlined above, Uber does not agree with the complainants' claims that:

(i) reversing the gender roles would have an impact on the assessment of the Advertisement; and

(ii) the Advertisement promotes or glorifies violence or criminal behaviour or implies that such behaviour is acceptable.

1.4 Advertisement does not reference sex, sexuality or nudity (section 2.4 of the Code)

Section 2.4 of the Code is not relevant to the complaint as the Advertisement does not reference or depict sex, sexuality or nudity.

1.5 Appropriate language used throughout the Advertisement (section 2.5 of the Code)

(a) The language used was appropriate in the context of the storyline and audience of the Advertisement.

(b) No strong or obscene language was used in the Advertisement.

(c) In particular, no abusive, threatening, intimidating or manipulative language, or language indicative of any form of emotional abuse, was used.

1.6 Advertisement not contrary to health and safety (section 2.6 of the Code)

Section 2.6 of the Code is not relevant to the complaint, on the basis that:

(a) the content and imagery displayed in the Advertisement does not depict unsafe practices; and

(b) the Advertisement does not promote behaviour that is contrary to prevailing community standards on health and safety.

1.7 Advertisement distinguishable as advertising (section 2.7 of the Code)



It is made clear to the audience that the Advertisement is advertising from its overall presentation, including through:

(a) the inclusion of Uber Eats branding (eg the use of the distinctive Uber Eats logo, distinctive Uber Eats branded paper bag and distinctive doorbell ring sound);

(b) the standard Uber Eats campaign tagline of 'This calls for...'; and

(c) the channels on which it has been placed (eg television, the Uber Eats YouTube channel).

1.8 Further examination of section 2 of the Code

Uber has considered the Advertisement alongside the remainder of section 2 of the Code and submits that the Advertisement does not breach any of the matters covered under those sections.

2. AANA Code for Advertising and Marketing Communications to Children

Uber submits that the Advertisement does not fall within the scope of the AANA Code for Advertising and Marketing Communications to Children.

3. AANA Food and Beverages Marketing and Communications Code

(a) The Advertisement contains a reference to food or beverage products and, therefore, falls within the scope of the AANA Food and Beverages Marketing and Communications Code (Food and Beverages Code).

(b) Uber has considered the Advertisement alongside the Food and Beverages Code and submits that the Advertisement does not breach any of the matters covered by it.

4. Conclusion

Given the above, the Advertisement complies with all relevant codes and practice notes and the complaints should be dismissed.

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' concern that the advertisement depicts domestic violence.

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



Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised

The Panel noted that the advertisement featured a scene which is a familiar trope from romantic movies and TV shows featuring a couple breaking up and throwing belongings off a balcony.

The Panel considered that the situation would be recognisable to many people watching the advertisement and the familiar trope easily sets the scene. The Panel noted the advertiser's response that the advertisement is a light-hearted exaggerated scenario meant to showcase the utility of the delivery service.

The Panel considered that although the woman is not seen to be physically or verbally abusing the man, she is seen to cause damage to his property which would be legally classified as a form of domestic abuse.

The Panel noted that the woman throws a game console at the ground near the man which is seen to break, and that the sound of other objects breaking can be heard.

The Panel considered that the woman's actions were menacing and in combination with the property damage this did amount to a depiction of domestic violence, despite the man's laconic response.

The Panel noted that there is a high level of community concern about the prevalence of domestic violence in Australia, particularly in relation to the increased media coverage of rising domestic violence rates due to the recent pandemic.

The Panel considered that the advertised product is a food and grocery delivery service and the portrayal of violence was not relevant to the service or justifiable in promoting this service.

Section 2.3 Conclusion

The Panel determined that the advertisement did present or portray violence which was not justifiable in the context of the product or service advertised and did breach Section 2.3 of the Code.

Conclusion

Finding that the advertisement did breach Section 2.3 of the Code, the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Upon receipt of the Ad Standards Community Panel determination, we made the decision to discontinue the advertisement and took steps to promptly remove it from circulation.

We thank Ad Standards and the members of the Community Panel for the important role they play.