



**ADVERTISING
STANDARDS
BUREAU**

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Case Report

1	Case Number	0398/13
2	Advertiser	Lion
3	Product	Alcohol
4	Type of Advertisement / media	TV
5	Date of Determination	27/11/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Other - miscellaneous
- Other Social Values
- 2.3 - Violence Causes alarm and distress
- 2.3 - Violence Graphic Depictions
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Depiction of smoking/drinking/gambling
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement shows a male (Mike) being confronted by his mouth and later repaying his mouth for all the things he's put him (the Mouth) through, with Tooheys Extra Dry. It begins at a house party where Mike is talking to a woman. His mouth begins to wriggle on his face, not knowing what is happening, Mike runs off into the kitchen where his mouth jumps off his face and onto the kitchen bench in front of him.

The Mouth then begins to confront Mike about all of the undesirable things he has put him through lately – focusing on activities that clearly do not leave any mouth feeling or tasting 'Clean or Crisp'. These events include Mike sucking on toes, having his mouth licked by his poodle, drying his mouth out, and finally having his inner lip tattooed with the words "bite me". This whole flashback sequence lasts approximately four seconds.

Once the flashback sequence finishes, we see the mouth on the kitchen bench step forward and ask Mike to give him something back as repayment for everything he's put him (the mouth) through.

At this point we cut and see Mike's hand reach into a bath of ice to pull out a bottle of Tooheys Extra Dry. We then see Mike, with his mouth now back on his face, take a sip of the Clean Crisp Taste of the Tooheys Extra Dry and afterwards the Mouth thanks Mike for repaying him. The Mouth protrudes out a bit to do this, but remains on Mike's face.

The Advertisement ends with a frame showing a pack shot of Tooheys Extra Dry with the words 'Repay Your Mouth with the Clean Crisp Taste' on screen.

THE COMPLAINT

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

Tooheys had a similar ad a few years ago depicting almost the same thing -it was a tongue and as vile as this new ad. Enough I say -it would be great to see this mouth ad taken off air. The ad contains inappropriate fetish images of a man leaking a female feet in between the toes... Disturbing and very inappropriate for any age and any hour no matter what. My family considers this to be unsavoury, distasteful and obnoxious particularly for younger people who may be watching. It also represents an unhealthy attitude when there are increased community concerns regarding the ill effects of excessive alcohol consumption.

It is horror sense to see a face without a mouth in such way. The spitting out of the mouth and the sexualised nature of the toe sucking and kissing is an objectification of the body. The suggestion that the mouth then needs cleansed after sucking and kissing the toes of a women is degrading in implying the uncleanness of the woman's body. The depiction of the man looking like his lips are shown together is degrading toward those people in detention who have had nothing but their own bodies to It shows weird fetish acts, Horror like imagery The man appears to be mutilated, as he face no longer has a mouth. I find the image of toes/feet Sucking/licking completely disgusting and unnecessary in promoting a beverage. I find the entire advertisement repulsive.

THE ADVERTISER'S RESPONSE

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

Lion does not consider that the Advertisement breaches any section of the AANA Code of Ethics.

As noted in further detail below:

- (i) Lion takes its advertising responsibilities extremely seriously and has a strong compliance track record in this regard; and*
- (ii) Lion has a number of strict internal and external processes against which any proposed advertisement is considered;*
- (iii) the Advertisement was put through each of these processes prior to Lion's decision to broadcast it.*

The Complaint references Sections 2.3 and 2.4 of the AANA Code of Ethics, which outline that advertising and marketing communications:

2.3 Shall not present or portray violence unless it is justifiable in the context of the product or service advertised;

2.4 Shall treat sex, sexuality, nudity with sensitivity to the relevant audience;

We will address both of these sections in turn.

a) Does the Advertisement present or portray violence unless it is justifiable in the context of the product or service advertised

The AANA Code of Ethics Practice Note (“Practice Note”) provides the following examples of violence which may not be justifiable:

- Sexual violence.*
- Strong suggestion of menace.*
- Audio representations of violence may be prohibited.*
- Violence against animals.*
- Realistic depictions of the consequences of violence are not acceptable, for example, showing a woman’s bloodied face may not be acceptable.*

Lion is of the view that the Advertisement does not represent any of those examples provided by the Practice Note or violence generally if a wider interpretation is taken.

Lion also notes the Practice Note provides that more leeway is permitted when assessing an advertisement where the depiction is stylised rather than realistic. Lion is of the view the overall events in the Advertisement are stylised in a way that presents them as fantasy rather than real-life possibilities in the eyes of a general member of the target audience.

For story-telling purposes it is also vital that the Mouth is shown to jump off the Man’s face so that the audience can clearly see the two having a conversation. Every effort has been taken to ensure that this action is shown in a way that is in no way violent, including not showing the mouth actually leaving the face.

b) Does the Advertisement treat sex, sexuality, nudity with sensitivity to the relevant audience;

Lion is of the view the Advertisement is not sexual in nature and, even if it was deemed to be sexual in nature, it is done so with sensitivity to the relevant audience.

The Practice Note provides that:

Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards.

We are of the view no part of the advertisement is highly sexually suggestive. There is no full nudity or explicit pornographic language.

In Lion’s view, the only component of the Advertisement which may be considered to have an element of sexuality is the flash back scene where Mike is sucking on toes. We note that the way in which this is depicted is not in an erotic manner and, accordingly, does not carry connotations of sexuality. Further, even if the toe flashback were deemed to be sexual, it is not highly sexually suggestive or inappropriate for the relevant audience.

The Practice Note also provides that the “discreet portrayal of nudity and sexuality ... in an appropriate context is generally permitted”. The scenes throughout the Advertisement that could potentially be interpreted as sexual in nature are discreet and appropriate in the context of the Advertisement.

The intention of the Advertisement is to promote the trademark ‘Clean, Crisp, taste’ that Tooheys Extra Dry is known for by contrasting it with tastes that a mouth may experience which are the complete opposite of this – and to execute this in a way that fits with the fun and quirky nature of the Tooheys Extra Dry brand.

Further to the above, prior to this Advertisement going into production, significant market research activity was undertaken by the Tooheys Extra Dry brand team, which identified the creative elements represented within the Mouth TVC as identifying most with the brand’s target market of 27 – 33 year olds and were the most effective for conveying the brand’s ‘Clean, Crisp, Taste’ product benefit.

On a more general level, the Complainants tend to assert that scenes in the Advertisement are: 'gross/distasteful' 'not funny' and 'unnecessary'.

The Mouth is intended to be a slightly gross character in order to have clear appeal to the targeted adult audience, particularly those who enjoy things in life that are a little quirky and offbeat – but, in Lion's view, this does not represent violence in any way or contravene prevailing community standards.

Similarly complaints regarding 'lack of humour' or 'lack of connection' with an Advertisement are not sufficient grounds to give meaningful cause for issue against the Code of Ethics.

The depiction of the Mouth as its own character in the Advertisement is entirely relevant to promoting the product and the core brand message as the sense of 'taste' lies within the mouth and this style of promotion is in line with market standards. There are many other examples of brand campaigns that highlight specific body parts in their advertising to demonstrate their specific product features.

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' concerns that the advertisement is distasteful, offensive, features horror like imagery which includes a man's mouth stitched up and a mouth leaving his face, and is sexualised in its depiction of toe sucking.

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

The Board noted that a number of complainants were concerned that the advertisement was distasteful and considered that as taste is not an issue under Section 2 of the AANA Code of Ethics the Board cannot consider this aspect of the complaints.

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that the advertisement features a mouth leaving a man's face and then telling him it deserves a reward for all that it has been put through, for example sucking toes, being licked by a dog and having a tattoo.

The Board noted that the advertisement had been rated 'M' by CAD.

The Board noted it had previously dismissed an advertisement for the same advertiser and product in case reference 198/03 which featured a tongue leaving a mouth where it found that the content of the advertisement was "fantasy intended to be humorous" and "it did not promote a product or service available to children".

The Board noted the complainants' concerns that the depiction of the mouth leaving the man's face is "horror like imagery" and considered that whilst some members of the

community may find the depiction of the mouth repulsive and visually offensive, it is not an image which is suggestive of violence. The Board noted the complainants' concerns that when the mouth has left the man's face his lips appear to be sewn together and that this is degrading towards people in detention who have sewn their lips together in protest. The Board considered that the depiction of the man's lips after the mouth has left his face is most suggestive of his lips sinking in to the void left by the mouth. The Board noted that when the man's mouth re-joins his face he appears normal again and considered that the advertisement does not suggest that the man has sewn his lips together.

The Board noted the overall theme of the advertisement of rewarding your mouth and considered that in this context the depiction of the mouth leaving a man's face is not a depiction that portrays violence, is not degrading towards people in detention and is not inappropriate for the relevant 'M' rated audience.

Based on the above the Board considered that the advertisement did not present or portray violence.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

The Board 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 complainants' concerns that the depiction of toe sucking is sexualised and inappropriate.

The Board noted that the scene showing the mouth sucking a toe is very brief and is part of a montage which shows the mouth being used in other ways which the mouth believes it should be rewarded for. The Board noted that whilst toe sucking can be sexual in this instance it is presented in a manner which is mildly sexualised but depicted as undesirable and is not inappropriate for the relevant 'M' rated audience.

The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach Section 2.4 of the Code.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Board noted the complainants' concerns that the scene featuring the toes being sucked and the dog licking the man's mouth is unhygienic.

The Board noted it had previously dismissed a case which featured a man offering a Dorito which he is holding between his toes to another man who then eats it (0275/10).

The Board noted in that instance "that the advertisement contained images of a food product held between a man's toes and that one man eats one of the products from the man's toes... The Board agreed that the depiction of holding food for consumption between a person's toes would be considered unhygienic. However, although acknowledging that some members of the community may find this advertisement offensive, the Board's view was that the

advertisement is exaggerated... The Board considered that the depiction of holding food between a person's toes was in the context of it being an undesirable action and therefore was not a depiction of material that would contravene prevailing community standards on health and safety. The Board determined that the advertisement did not breach section 2.6 of the Code."

The Board noted that in the current advertisement the man appears to be quite happy to be sucking a woman's toes and considered that even though his mouth is depicted as not enjoying the experience overall it is made clear that the man has chosen to suck the toes and that he clearly knows the lady whose toes they are. The Board considered that the depiction of the man sucking toes is not a breach of prevailing community standards on health and safety.

The Board noted that it had previously dismissed a case which featured a dog licking a child's face (0070/13) where it considered that "most members of the community would agree that the practice of a dog licking a child's face, whilst not to be encouraged, is not of itself a breach of community standards on health and safety."

The Board noted that in this instance the advertisement shows a man, not a child, being licked by a dog and considered that the man is clearly happy to allow the dog to do this. The Board agreed that some members of the community would find this practice to be unhygienic however consistent with its previous determination in case 0070/13 the Board considered that the depiction of a dog licking a man's mouth is not of itself a breach of prevailing community standards on health and safety.

The Board noted the complainant's concerns that the advertisement encourages excessive alcohol consumption. The Board noted that whilst the advertisement encourages consumers to reward their mouths it does not suggest that you should drink excessive amounts of alcohol. The Board considered that the most likely interpretation of the advertisement is that if you want to reward your mouth with a drink you should choose the advertised product. The Board considered that the advertisement did not depict, encourage or condone excess alcohol consumption.

Based on the above the Board considered that the advertisement did not depict material contrary to prevailing community standards on health and safety.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.

