



Case Report

1	Case Number	0402/12
2	Advertiser	Johnson & Johnson Pacific Pty Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV
5	Date of Determination	24/10/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement starts with a woman aged late 20's walking down a corridor of a modern looking office space. She talks directly to camera telling the audience about the inconvenience of uncomfortable pads.

The woman continues through the office and walks past the office lift which reveals a woman who is experiencing that problem. They exchange a discrete but knowing look. The woman continues past another woman who is at the photocopier with a similar problem who adjusts discretely as our main character walks past her. She walks past two more women each adjusting their underwear and showing some sign of discomfort. Another discrete and knowing look is exchanged with the last woman in the kitchen.

As the main character continues through the office she explains that this problem of uncomfortable pads has gone on for too long and that Stayfree® Ultra Thins with PerfectFit™ Technology are so comfortable they come with a Fidget Less Guarantee. The scene pulls out to a shot of the main character as she exits the office showing the Stayfree® Fidget Less Guarantee on screen.

In the final scene a rangeshot of the new Stayfree® PerfectFit™ products are displayed and the Advertisement ends with the voice over "and a stylish new look."

THE COMPLAINT

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

Every time I see the Stayfree ads I want to KILL MYSELF!!! Women know what it is like to deal with all that shit it does not need to be advertised! Please either ban it or KILL ME!!!

Totally sociably unacceptable actions - I have never seen a woman do this in public; I find this really degrading to women. Not to mention the discussion about vaginal discharge, this should be discussed at school in personal development classes not on TV while families are having their even meal.

THE ADVERTISER'S RESPONSE

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

In response to the complaint about the degrading of women in the Advertisement:

We refer to the complaint received by the ASB and provided to us. The complainant claims that the Advertisement is degrading to women, refers to "discharge" (which is not mentioned in the Advertisement) and states that "this should be discussed at school in personal development classes and not on TV..."

The ASB has referred us to section 2.1 and 2.4 of the Code.

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, gender, age, sexual preference, religion, disability, mental illness or political belief. (Emphasis added).

The AANA 2012 Code of Ethics Practice Note (the "Practice Note") states:

"Discrimination – unfair or less favourable treatment" ; and

"Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

Research conducted by Stayfree® found that a significant proportion of women surveyed agree that: "sometimes I need to secretly adjust my pad", they found the issue "bothersome", they related to the Advertisement and found that it showed that Stayfree® understood their needs (see Annexure A). That research illustrates that uncomfortable pads are a significant issue for women.

Stayfree® has designed a feminine sanitary pad that responds to this issue and in the Advertisement, Stayfree® is sharing the issue regarding uncomfortable pads, relevant to many women, by displaying different situations where a discrete, knowing moment is shared between the spokesperson in the Advertisement and the woman who adjusts the uncomfortable pad. The Advertisement informs women about the specially designed product and does so discretely, which is why the scenes do not have other 3rd party onlookers.

As noted above, the Advertisement is shown during PG timeslots, deemed to contain careful presentation of adult themes or concepts which are mild in impact and remain suitable for children to watch with supervision (emphasis added). Accordingly, the advertisement is being shown at appropriate times to an appropriate audience.

We note that under the Practice Notice the ASB is to have regard to "Prevailing Community Standards" when considering complaints under Section 2 of the Code. We submit that prevailing community standards would support that the Advertisement is not in breach of the Code because the majority of people would support that feminine hygiene products and issues surrounding them can and should be advertised on television.

In the Advertisement Stayfree® is presenting a solution to an issue women experience regarding uncomfortable pads and we submit the Advertisement does not “discriminate” against women, is not unfair, does not treat women less favourably and does not “vilify” or humiliate, incite hatred or contempt or ridicule women.

Accordingly, we submit that the Advertisement complies with the Code and is not in breach of Section 2.1 of the Code or any other section of the Code.

Section 2.2 of the Code

The ASB has not referred us to section 2.2 but we note that the complaint uses the word “degrading” and it appears in section 2.2 of the Code.

That section provides:

“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 this section is not relevant and the Advertisement does not relate to “sexual appeal”.

We also repeat our comments above regarding the Advertisement not vilifying women and prevailing community standards supporting the Advertisement.

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.”

There is no nudity in the Advertisement.

In our view “sex” is not relevant as “sex” refers to either gender or procreating.

To the extent that the Advertisement deals with issues of “sexuality” (i.e the characteristic of the female reproductive elements) we submit that the language used is not offensive, the images are appropriate and treat sexuality with sensitivity to the relevant audience and within the context of the subject matter.

In response to the complaint about the discussion of vaginal discharge:

The Advertisement from Stayfree® does not reference or discuss vaginal discharge in anyway.

In our view, the complaint regarding ‘discharge’ is not relevant to this Advertisement and we note that the ASB has previously dismissed complaints regarding that issue and found that the advertisement regarding that issue complied with Code.

Conclusion

For the reasons set out above we 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 and 2.4 of the Code.

We respectfully ask the Advertising Standards Board to set aside the complaint it has received.

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 advertisements features references to a woman’s bodily functions which are not appropriate and are degrading to women.

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 the advertisement features a woman talking about sanitary pads and how uncomfortable they can sometimes be. The Board noted that the advertiser had provided quantitative research data which illustrated the concerns many women had with the need to adjust their pads and considered that the women shown adjusting themselves in the advertisement are presented in a manner which highlights these concerns. The Board noted the complainant's concern that the advertisement is degrading to women in its portrayal of women visibly adjusting their pads whilst in public and considered that as the advertisement is highlighting the comfort of Stayfree Ultra Thins it is reasonable to demonstrate how some pads may need adjusting whereas Stayfree shouldn't. The Board noted that the scenes of the women making adjustments are done so through their clothing and are brief and relatively discreet.

The Board considered that this portrayal is presented in a manner which is not degrading, discriminatory or vilifying towards women.

Based on the above the Board determined that, in this instance, that the advertisement did not depict any material that discriminated against or vilified any person or section of society. The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisements were 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 that the advertisement had been rated 'PG' by CAD which means it can be broadcast between 8.30am and 4pm on weekdays, and between 7pm and 6am on weekdays and between 10am and 6am on weekends.

The Board noted the complainants' concerns that feminine hygiene is not appropriate for discussion on television. The Board considered that the advertisement presents the issues surrounding feminine hygiene in a manner which is factual and considered that the references to the wearing of sanitary pads are treated with sensitivity to the relevant audience even though some people would prefer that such products are not advertised at all or should be advertised more discreetly.

The Board considered that the advertisement presents the product appropriately and treats the

subject with sensitivity to the relevant audience.

On this basis the Board determined that the advertisement did depict sex, sexuality and nudity with sensitivity to the relevant audience and that it 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 complaint.