



Case Report

1	Case Number	0465/10
2	Advertiser	Lion Nathan Aust Pty Ltd
3	Product	Alcohol
4	Type of Advertisement / media	TV
5	Date of Determination	24/11/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Sex

DESCRIPTION OF THE ADVERTISEMENT

A male voice over describes scenarios where a mate would have to buy beer for sending an inappropriate text. The worse the scenario, the more beer is suggested as an apology. It begins with sending text about your mate to him, then sending an inappropriate text to your mate's girlfriend, then a picture text to the girlfriend, and finally to your mate's mum. Each scenario described is acted out on screen and when the voice over questions why you would have your mate's mum's number, we see the man and his mate's mum touch hands and exchange a look as soon as the mate storms off in disgust over the text. We then see a close up of some cases of Tooheys NEW and the text "For the love of beer" and in the background we can see the man and his mate's mum walking towards car, and he taps her on the bottom.

THE COMPLAINT

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

*I am not offended by this advertisement on the grounds of inappropriate usage of alcohol as previous complaints about another offshoot of this advertising campaign have expressed. Rather I believe this advertisement is normalising and treating with humour what would be considered sexual harassment in normal society. The NSW Anti-discrimination Act of 1977 in section 22A states that "...a person sexually harasses another person if:
(a) the person makes an unwelcome sexual advance or an unwelcome request for sexual favours to the other person or*

(b) the person engages in other unwelcome conduct of a sexual nature in relation to the other person in circumstances in which a reasonable person having regard to all the circumstances would have anticipated that the other person would be offended humiliated or intimidated."

The sending of an "inappropriate text message" with "a picture" certainly implies to a 21st century society sexual connotations. The response of the girlfriend within the advertisement shows that the text message was clearly offensive humiliating and unwelcome. I believe this constitutes sexual harassment.

It is not explicitly stated in the advertisement that the text messages were accidentally sent though this could be inferred. However regardless of whether the messages were for their intended audience the advertisement suggests that graphic and inappropriate messages presumably of degradation to the friend's girlfriend were going to be sent to someone at some point.

The advertisement is humorous and the overall message seems to be that inappropriate behaviour can be made up for with a few beers. I believe this downplays the seriousness of sending inappropriate text messages (particularly graphic ones) and degrades the 'girlfriend' who is allowed to be offended and humiliated for the price of a few beers exchanged between 'mates'.

This advertisement is degrading to women (the man doesn't 'repay' the girlfriend - only the male friend is 'repaid') it downplays the seriousness of sexual harassment and at the very least it encourages the idea that inappropriate behaviour is of no serious social consequence.

THE ADVERTISER'S RESPONSE

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

The advertisement questioned is the Tooheys New 'Text' TVC, which was launched as part of the broader Tooheys New brand's new 'Beer Economy' campaign. As an overall introduction, I would first like to address the concept of the 'Beer Economy'. The 'Beer Economy' series of advertisements are based on an insight into the average, Australian beer drinker. For many years mates have paid each other in beer, instead of money, as a way to say thank you for small favours or to apologise/make-up for an unfortunate incident or accident. Whether it be helping a friend move house, or apologising for putting a dent in the car, Australians like to help 'fix' a situation with a beer.

Many people can relate to this simple insight and have used beer in this fashion at some stage of their lives. As such, the aim of the Tooheys New advertising campaign is to have fun with these experiences, and perpetuate this endearing quirk of Aussie culture.

Description: The advertisement portrays a number of fictional scenarios that escalate in their impact – all based around the concept of accidentally sending a text message to the wrong person. Initially, one mate accidentally sends a text message to his mate that is about him, not for him. The situation is then exaggerated when the same mate accidentally sends an inappropriate text to his mate's girlfriend, he is then shown to have sent said girlfriend a text with a picture message not intended for her. Finally the exaggeration culminates as one mate accidentally sends the message to his mate's mum – with the question posed, why did he have his mate's mum's number?

This exaggerated and humorous escalation is at the heart of the ‘Beer Economy’ campaign. In all the executions, the scale and nature of the scenario moves from the average to the absurd – it is very clearly comical hyperbole, and it is not expected a reasonable person would think otherwise.

With regards to Section 2, Clause 2.1 of the AANA Advertiser Code of Ethics, the Tooheys NEW ‘Text’ advertisement is in no way in breach of this Section. This section reads:

“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.”

At no stage of the advertisement is it suggested that the content of the text message is offensive to the girlfriend because she is female – it is suggested that the text was not intended for her. This is in no way different to the first scenario shown in the ad, whereby the male friend is offended by the text message because it is about him. He is not offended because he is male – but because it was a text he shouldn’t have seen. It is clear the text message is not of a discriminatory nature based on the characters’ specific circumstances – their age, sex, nationality etc – but rather because the text wasn’t intended for them.

Furthermore, the content of the text message is not displayed at any point, nor is any indication given of the specific nature of the text message beyond the fact one of them contains an image. This is because the focus of the advertisement is on the act of accidentally sending a text message to the wrong person – not on the content of the text message itself. It is made clear that the text message was not intended for the girlfriend and had been sent as an accident. The advertisement does not include any language or imagery that would indicate that the message is in any way discriminatory.

We are confident the advertisement is in line with community standards. The overwhelmingly positive feedback we have received to date demonstrates the advertisement has resonated with TV viewers.

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 concern that the advertisement makes light of sexual harassment through the sending of an inappropriate text message.

The Board reviewed the advertisement and noted the advertiser’s response.

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 advertisement is part of a broader ‘beer economy’ campaign which is based on the premise that mates pay each other in beer, instead of money, as a means of

thanking them or apologising to them for something, with the amount of beer calculated in line with the significance of the favour or help provided or the apology being offered. The Board noted that the advertisement, in this instance, depicts a man apologising for sending a text message to the wrong person, with the amount of beer offered as an apology increasing depending on who the recipient of the text was.

The Board considered the advertisement depicts a common Australian means of apologising to a friend, and does so in an exaggerated manner that is clearly intended to be humorous. The Board noted the content of the text message is not disclosed and considered that there were many possibilities as to the nature of the text message. The Board noted the woman was not happy at receiving the text in error, however the Board considered that whilst her reaction indicates the text was unwelcome, it does not necessarily mean it was of a sexual nature. The Board also considered the advertisement clearly indicated the message was sent to her accidentally and not as intentional harassment.

The Board considered that the humour of the advertisement offsets any connotations of the text message, and considered that most members of the community could relate to the 'beer economy' premise and would clearly understand that the advertisement is meant to be humorous.

The Board determined that the advertisement did not depict any material that discriminated against or vilified women. The Board determined that the advertisement did not breach section 2.1 of the Code.

The Board noted the sub text of the advertisement which suggests that the man who sent the text message was involved with his friend's mother. The Board noted complainant's concern that this part of the advertisement was inappropriate. The Board considered that some people may consider the suggestion of a relationship such as this inappropriate. The Board considered however the depiction of a relationship between a man and his friend's mother in the context of this particular advertisement was discrete, clearly directed at an adult audience (in the context of an advertisement for an alcoholic beverage) and treated sex or sexuality with sensitivity to the relevant audience. The Board considered that the advertisement did not breach section 2.3 of the Code.

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

