



Case Report

1	Case Number	0483/15
2	Advertiser	Strictly BMX
3	Product	Clothing
4	Type of Advertisement / media	Internet
5	Date of Determination	09/12/2015
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.5 - Language Inappropriate language
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This video advertisement was sent as part of an email to a customer and features a man buying some beer then riding back with it, meeting some friends. We see the men put the beer in stubby holders and drink it. One man empties the beer in to his shoe and drinks from it; we then see him coughing up the beer in the street.

THE COMPLAINT

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

I have a 16 year old son who purchases goods from this company for his bike. Most of this companies customers are children and they are promoting drinking and getting drunk on this email.

THE ADVERTISER'S RESPONSE

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

The video was tongue in cheek making fun of a typical "VB" type ad that a customer had made for our tee shirt, stubby coolers and stickers as they are a take off of the VB logo that we thought was funny and decided to include in our Mailout.

It was made by one of our shop customers, which we do not want to name so that he does not get in any trouble as he made it for fun.

The video shows a guy buying beer then bringing it back to drink with his mates and shows the tee & stubby holders there 2 guys spiting the beer out.

We just thought it would be funny and no-one in the ad is underage or did we depict anyone to be underage and are in no way trying to promote kids to get drunk??

Here is the link to the video. <https://www.youtube.com/watch?v=0KHlr9UejTM> 149 views.

No -one is getting "drunk" 2 men in the video spit it out. i would hope that people can tell it's a joke, we certainly couldn't run a business being drunk. Also the person making the complaint says that most of our customers are under 18 which is not the case our customers are between 14 -30 on average most are actually over 18.

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 promotes drinking alcohol and getting drunk and as BMXs are aimed at children this is an inappropriate message to be promoting.

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

The Board considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Board noted that advertisement was received by the complainant via email and contained images of products available to purchase at the Strictly BMX store as well as a video clip promoting some of these products.

The Board noted the text underneath the video clip which includes, “Drink response...responsillybilly hahaha fuck it we’re drunk”.

The Board noted that the advertisement was received via email and an option to unsubscribe is provided. A minority of the Board considered that in the context of an email sent to an adult the use of a strong swear word as part of a large paragraph is not inappropriate in the circumstances.

The majority of the Board however noted that the ‘f’ word is still a word which many

members of the community would find strong and obscene and considered that it is not appropriate language for an email promoting bike products.

Overall the Board considered that the advertisement did use strong and obscene language which was not appropriate in the circumstances.

The Board determined that the advertisement did breach Section 2.5 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 advertiser’s response that the video clip was provided by one of their customers. The Board noted that by choosing to include the video as part of their email promotion the advertiser is responsible for the content.

The Board noted the video shows a man riding a bike to a store to buy beer. The Board noted that the man is not wearing a bike helmet and considered that consistent with previous determinations about the same issue (0202/13, 0011/15) the community standards are very clear on the issue of health and safety whilst riding a bicycle and that a depiction of a young man riding a bicycle without a helmet is in breach of these standards.

The Board noted that the video then shows the man sharing the beer with some friends and we see them drinking on the street. The Board considered that a depiction of young males drinking alcohol, and spitting it out, on the street is not a message consistent with responsible drinking of alcohol. The Board noted that the t-shirt worn by the main character as well as the stubby holders the men use for their beers contain the slogan, “Riders by day, lovers by night, drunks by choice” and considered that the message, “drunks by choice” in conjunction with the depiction of the young men drinking alcohol in the street is contrary to prevailing community standards on the safe and responsible consumption of alcohol.

The Board noted the complainant’s concern that the men appear to be drunk and considered that whilst one man is showing spitting up beer in the Board’s view the most likely interpretation for his actions are because he has just drunk the beer from his shoe. The Board noted that the men appear to be happy but considered there is no strong suggestion that they are drinking to excess or that they are drunk other than the reference to ‘drunks by choice’ on the t-shirt and stubby holders.

Overall the Board considered that the advertisement did depict material contrary to Prevailing Community Standards.

The Board determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We removed the ad from our Facebook and Instagram pages a few days after receiving your notice of the complaint and obviously it only went out that once in a mail-out and won't go out or be used again.