



Case Report

1	Case Number	0507/15
2	Advertiser	Subway Franchisee Advertising Fund
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	20/01/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertisement starts with an Office Worker stepping out on his lunch break and looks left and right to find somewhere to pick up something really tasty for lunch. He dreams about delicious food and imagery appear on screen of pastrami being sliced and tangy relish being spooned over the top of the pastrami. An image of a complete sandwich then appears. He continues his journey down the street and begins to face obstacles along his way. His first obstacle is two workmen carrying a pane of glass across his path and the Office Worker is forced to duck underneath the pane to avoid a collision. The final obstacle is a women pushing a clothing rack of suits in the Office Worker's path. The Office Worker steps through the rack. The Office Worker then approaches his destination where he can find a tasty lunch, a Subway® Restaurant.

THE COMPLAINT

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

It is the first one of these activities that I am writing about. He is seen ducking under a pain of glass that two workmen are carrying across the footpath. I am surprised that this advertisement would be allowed to air with such a dangerous behaviour being shown. As a site safety officer I would never accept this behaviour from a worker let alone an member of the public. I am extremely concerned that people seeing this advertisement might see this

activity as being safe or acceptable. On another point, it does not show any attempt of the workers to safely protect that pedestrians as would be the safe work practice for this type of activity. I am very concerned about the lack or apparent consideration to this very risky behaviour and would like to see this part of the advertisement reviewed.

THE ADVERTISER'S RESPONSE

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

We refer to your letter regarding a complaint received from a member of the public concerning the Subway ® 'Pastrami & Relish' TVC. The concern raised by the complainant is that:

- 1. the man seen ducking under a pane of glass in the advertisement is "dangerous behaviour being shown"*
- 2. "People seeing this advertisement might see this activity as being safe or acceptable"*
- 3. The advertisement "does not show any attempt of the workers to safely protect pedestrians as would be the safe work practice for this type of activity".*

Thank you for the opportunity to comment. We have considered section 2 of the AANA Advertiser Code of Ethics (the "Code").

We respectfully deny the complaints pursuant to provision 2.6 (Health and Safety) of the Code and assert that the advertisement is not in breach of this provision or any other provision of the Code.

We refer to the complainant's allegation that "dangerous behaviour is being shown" when the Office Worker ducks under the pane of glass.

The above scenario is depicted in the advertisement as a classic slapstick comedy cliché. Similar scenes have featured in popular comic movies and acts including the 'Laurel and Hardy' movies. The above scenario was intended to depict a light-hearted parody that pays homage to a classic slapstick comedy scenario. The actions of the Office Worker are exaggerated and the actions and time is compressed to make the scenario less realistic. It was not SFafa's intention to depict the scenario as realistic or the Office Worker's actions as common every day practice. It certainly was not SFafa's intention to depict any dangerous or unsafe activity or practice.

We refer secondly to the complainant's allegations that "people seeing this advertisement might see this activity as being safe or acceptable" and that the advertisement "does not show any attempt of the workers to safely protect pedestrians as would be the safe work

practice for this type of activity”.

The advertisement is directed to adults and is not directed to children. The advertisement was filmed under strict controls and safety standards. In the above scenario, it was SFAFA’s intention to depict a safe and controlled environment and ensure that the obstacle shots did not place any person in a dangerous condition.

SFAFA goes to great lengths throughout the production process to ensure that our advertisements are not misleading or contain deceptive information or perceptions for consumers. We certainly do not intentionally set out to contravene prevailing community standards. SFAFA also works to ensure that all claims relating to material characteristics and representations of Subway® products are verified and accurate working with our suppliers, in line with the Food and Beverage Advertising and Marketing Communications Code.

On the basis of the above, we respectfully submit that the complaint received should be dismissed.

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 depicts a man ducking underneath a large pane of glass being carried by workmen which is dangerous, and that the manner in which the workmen are transporting the glass breaches workplace safety practices.

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

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 that this television advertisement depicts a man making his way to Subway and en route ducking under a plane of glass being carried across a pavement in to a building by two men.

The Board noted the complainant's concern that the man's behaviour in ducking under the glass is dangerous. The Board noted the advertiser's response that this scene was intended to represent a classic slapstick comedy cliché. The Board noted that the manner in which the man makes his way to the Subway restaurant, interacting with other people and passing through a rack of suits, as well as ducking under the glass, amounts to an overall fantastical tone. The Board acknowledged that it would be dangerous to duck underneath glass in the manner depicted in the advertisement but considered that the man's actions are fleeting and very unlikely to be possible in reality. The Board considered that most members of the community would recognise the stylistic nature of the advertisement and would not try and replicate the content.

The Board noted the complainant's concern over the manner in which the workmen are transporting the glass. The Board noted that whilst it might not be the safe way to carry glass the Board considered that people are unlikely to be in a situation of carrying a large plane of glass – an activity usually undertaken by professionals. The Board considered that in the context of an advertisement featuring a fantastical representation of a man's unrealistic journey to a Subway restaurant, the content does not depict, encourage or condone unsafe behaviour.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards.

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 complaint.