



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0511/18
2	Advertiser	Mars Wrigley Confectionery
3	Product	Food and Beverages
4	Type of Advertisement / media	Cinema
5	Date of Determination	23/01/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

2.3 - Violence Violence

DESCRIPTION OF THE ADVERTISEMENT

This cinema advertisement features M&M's characters walking in front of patrons at the cinema screen as the movie plays. Through various cuts, you get to see brief scenes of the movie, as it looks as though an undisclosed female is being chased by another undisclosed man. The M&M's characters eventually find their seats, before revealing a scene on screen as a mysterious car whisks away the woman.

THE COMPLAINT

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

Violence against women is disgusting.

This type of behaviour is unacceptable.

This form of advertising should not be tolerated.

Perpetrating violence upon anyone is abhorrent.

Last time I recorded the advertisement to have proof in case it was needed.



THE ADVERTISER'S RESPONSE

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

*Advertising Complaint Reference – 0511/18
Advertiser – Mars Wrigley Confectionery
Advertisement – 'M&Ms® Excuse Me Cinema'*

We refer to your letter providing us with a copy of a complaint (0511/18) received by the Ad Standards (the Complaint) regarding a Mars Wrigley Confectionery advertisement, Mars® 'M&Ms® Excuse Me Cinema' (Advertisement).

Mars® respects and acknowledges the right of the public to provide opinions regarding advertising content and also values the work of the Ad Standards. Mars therefore appreciates the opportunity to respond to the Complaint as follows.

A description of the Advertisement

The cinema Advertisement relates to Mars® M&Ms®, a product of Mars Wrigley Confectionery. The general premise behind the Advertisement is that the Mars® M&Ms® chocolate characters are attending and interrupting a film in a cinema.

Mars contends that the Advertisement does not breach any section (including Section 2) of the AANA Advertiser Code of Ethics (the Code) which also covers the AANA Code for Advertising and Marketing Communications to Children and the AANA Code for Food and Beverages Marketing.

The AANA Code for Advertising and Marketing Communications to Children is not applicable in this context as the Advertisement is not directed at children.

This is in line with our commitments to not advertise to children under 12 as part of the Mars Marketing Code and as a signatory to the Responsible Children's Marketing Initiative.

The Advertisement complies with the AANA Code for Food and Beverages Marketing: there is no suggestion the Advertisement misrepresents the product, makes any health or nutrition claims, shows any excess consumption or is otherwise contrary to Prevailing Community Standards.

Sections 2.1 – 2.2 and 2.4 – 2.7 of the Code do not appear relevant to the Complaint or to the content of the Advertisement and are addressed further below:

2.1 - Discrimination or vilification

This section does not appear relevant to the Complaint or the content of the



Advertisement. The Advertisement does not discriminate or vilify any person.

2.2 - Exploitative or degrading

This section does not appear relevant to the Complaint or the content of the Advertisement. As indicated above, the Advertisement does not depict or imply sexual appeal in a manner which is degrading or exploitative of any individual or group of people.

2.3 – Violence

The focus of the Advertisement is intended to be on the M&Ms® chocolate characters interrupting a suspenseful part of “a film” (which could be any film) in a cinema, similar to archetypal ‘Film Noir’ or ‘Thriller’ genres. The nature of the Advertisement in respect of the chocolate characters is light-hearted and jovial, poking fun at commonly observed behaviour of cinema-goers when they move across the screen or talk loudly during a key plot moments in a film.

We understand that the complainant is concerned that the film playing in the background of the Advertisement implies that the (assumed) female lead may be abducted by the (assumed) male who the complainant assumes is chasing the female lead. However, we submit that the scene is entirely ambiguous, particularly as:

- it is open to interpretation what the narrative of the film or motives of the characters in the background film are;*
- it doesn’t show who is driving the car and whether the female character got in the car (the complainant assumes this, but the driver of the car could also be an accomplice of the female); and so therefore there should be no presumption about one of the characters featured being abducted.*
- it is uncertain what happens to the female.*

Importantly, the Advertisement does not depict any actual violence taking place. In this respect, the background reference to the movie scene with an apparent degree of tension is not inappropriate. The reference is not in any way violent nor the focus of the Advertisement.

Mars® submits that the moral viewpoint being offered by this Advertisement is certainly not in any way condoning violence against women which Mars® agrees is a highly important societal issue. The purpose of this advertisement is simply a way to use our M&M® fictional brand characters in a relatable cinema context, where cinema goers (or in this case the fictional M&Ms® chocolate characters) interrupt an important or tense part of a film.

2.4 - Sex, sexuality and nudity

This section does not appear relevant to the Complaint or the content of the Advertisement. The Advertisement does not present or portray sex or nudity of any kind.



2.5 – Language

This section does not appear relevant to the Complaint or the content of the Advertisement. No inappropriate or obscene language is used in the Advertisement.

2.6 - Health and Safety

This section does not appear relevant to the Complaint or the content of the Advertisement. No element of the Advertisement is contrary to Prevailing Community Standards on health and safety. The Advertisement clearly depicts a movie scene which is not considered to be at all a “real life” depiction.

2.7 - Distinguishable as advertising

This section does not appear relevant to the Complaint or the content of the Advertisement. It is clear that this piece of film is an advertisement for Mars®.

Mars is committed to complying with the Code and all relevant advertising laws and codes at all times and on the basis of the above, maintains that the Advertisement does not contravene the Code. Mars® respectfully submits that the Complaint should be dismissed.

Should you require any further information, please do not hesitate to contact us.

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant’s concern that the advertisement features a woman being chased and kidnapped and that this is a depiction of violence against women.

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

The Panel noted that this cinema advertisement features a movie-like scene where a woman in heels is being followed by a man. While the scene is playing out silhouettes of the M&M characters can be seen moving across the bottom of the screen, similar to people walking in front of a screen at a cinema.

The Panel considered whether the advertisement breached 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 Panel noted the advertiser’s response that the focus of the advertisement is on



the M&M characters interrupting a suspenseful part of the film, and not on the actions in the film itself. The Panel also noted the advertiser's response that the film did not depict violence.

The Panel noted that in light of recent high-profile abductions and murders of women in Australia there is a high-level of sensitivity in the community regarding this issue.

The Panel considered that the scene played-out in the advertisement featured was suspenseful, and while there was no actual violence in the advertisement the scenes from the movie did have a strong sense of menace and a suggestion that the woman had been abducted.

The Panel noted that the Practice Note for the Code provides:

"The Community Panel has also found that a strong suggestion of menace presents violence in an unacceptable manner and breaches this section of the Code."

The Panel considered that the scene with the woman was highly-stylised and appeared to be part of a spy or thriller movie. However, the Panel considered that the images from the movie are the backdrop to the focus of the advertisement which is the humorous and unrealistic depiction of the M&M characters. The Panel considered the most likely impact of the advertisement was humour, and that most people would consider that the advertisement overall did not contain violence or a sense of menace.

In the Panel's view the advertisement as a whole did not depict violence, or have a sense of menace and did not breach Section 2.3 of the Code.

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

