



Case Report

1	Case Number	0537/14
2	Advertiser	McCain Australia and New Zealand
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/12/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a group of construction workers having lunch together. One of the workers is eating a McCain Healthy Choice meal and his colleagues tease him for his choice by pretending to have muscles and six-packs before saying that the food smells really good. One of the workers asks if the man has another meal and he replies that he doesn't and that he wouldn't want to ruin his figure. The men all laugh and we see a screen shot of the advertised product.

THE COMPLAINT

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

Do you realise that your Healthy Choice ad is racist?

It is extremely offensive to drag up an old stereotype of the tightwad, racist Anglo Australian not sharing with his ethnic looking work counterparts. This ad makes the ethnic looking men as if they are begging for the Anglo Australian's food when we all know that it was the European migrant that brought food culture to Australia and it was us who were made fun of in the school yard for our fantastic foods that are now in every café in the land.

I can't believe this ad got through the whole process without anyone considering this new racism, where we have to again be told that blondes and sandy haired people are superior to darker haired races. I could write an essay on this ad, it is so bad. Let me elaborate. The ad is offensive because it follows this modern trend of making what used to be unsocial and bad

behaviour the new norm, and acceptable. McCain's aren't responsible for all of that, it is everywhere that selfish is good. What is bad about this ad is that the ones who are begging are overweight, out of shape, dark-haired i.e. ethnic and dimwits who cannot organise their own lunch and who are so shameless they would beg this uptight, thin, neat, Aryan stereotype for food, for anything. As if they have no pride. The parents of those ethnic-looking stereotypes would have, in the old days, never let their children ask for anything from a racist co-worker or boss. I just can't believe that you can't see why this ad makes people such as myself burn up with the remembered humiliation of our racist childhoods. We were the ones with the good food, we will never beg the Aryan stereotype for the good food. The culture changed because of us. You have Jamie Oliver, fantastic, you have Ben's Menu, fantastic, we've come so far why would you take such a retrogressive step? The more accurate portrayal would have been the unmarried man going off to buy junk food, plenty of it and feeling bloated and a non-racially different work peer having a healthy meal which did not hurt his digestion. Simple and inoffensive, instead they have to trade on and swap these offensive and historically accurate stereotypes of the nasty, racist, mean Anglo-Australian co-worker. The word you are not hearing but which is being creamed out by this ad is the pejorative word 'w--'.

THE ADVERTISER'S RESPONSE

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

Response to complaint reference number 0537/14 We refer to your letter concerning the complaint received by the Advertising Standards Bureau (ASB) in respect of McCain Australia and New Zealand's (McCain) 'McCain Healthy Choice - Whole Grains' television advertisement (Advertisement).

The complainant alleges that the Advertisement raises issues under section 2.1 of the AANA Advertiser Code of Ethics (Code), which provides that –

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. For the reasons set out below, McCain strenuously denies that the Advertisement infringes section 2.1 or any other section of the Code.

Background to the Advertisement The Advertisement was created to promote McCain "Healthy Choice" range (Healthy Choice), which includes the Healthy Choice Chicken & Chorizo Paella as featured in the Advertisement. Many of the Healthy Choice meals are inspired by international cuisines, in recognition of the fact that Australia celebrates in its multicultural population and enjoys the cuisines of a diverse range of nations.

The target audience for the campaign is men and women who are not dieters, but wish to take a balanced approach to food and lifestyle. The message conveyed by the Campaign is that Healthy Choice promotes healthy eating and offers people convenient, nutritious meals without compromising on flavour. This is reflected in the tagline of the campaign - "Healthy Choice is looking after yourself".

The Advertisement The Advertisement features men of non-specific nationalities, engaging in

good-humoured banter with one another while enjoying their lunch break at a worksite.

Two of the men featured in the Advertisement (Guy One and Guy Two) take a particular interest in the Healthy Choice meal that is being eaten by one of their co-workers (Cam), and playfully poke fun at Cam with comments such as “Ooh ... healthy”, “Look at me, I’m ripped” and “I’ve got a hot girlfriend”. The playfulness of the Advertisement is clearly evidenced by the fact that all of the characters are smiling and laughing throughout.

The style of the Advertisement is fun, light-hearted and humorous. It is intended to encourage people to feel empowered by the healthy food choices that they make.

The Advertisement has been the subject of extensive internal and external approval processes, including CAD approval, prior to being broadcast.

The complainant McCain takes compliance with the Code very seriously. McCain considers that the Advertisement cannot, in any circumstances, be reasonably considered to portray people or depict material in a way which discriminates against or vilifies any person or section of the community on account of race, nationality or ethnicity.

Depiction of race, nationality or ethnicity in the Advertisement The characters depicted in the Advertisement are not of any particular race, nationality or ethnicity. Nowhere in the storyline, script or sentiment does the Advertisement make any reference to a particular race, nationality or ethnicity, or to racial or ethnic characteristics.

The complainant relies on the fact that Guy One and Guy Two are “darker haired” to support the proposition that the men are therefore “ethnic”. With respect, this interpretation is unreasonable and is unlikely to be shared by the broader community. It is also unlikely that reasonable members of the community would take the view that the Advertisement conveys any message whatsoever regarding race, nationality or ethnicity, and it is even less likely that reasonable members of the community would consider the Advertisement to discriminate or vilify on any of the bases outlined in section 2.1 of the Code.

Discrimination The Advertisement does not portray people in a way which discriminates against a person or section of the community on account of race, nationality or ethnicity.

The ASB Determination Summary on Discrimination and Vilification in Advertising (April 2014) (Determination Summary) defines “discrimination” as –

Acts with inequity, bigotry or intolerance or gives unfair, unfavourable or less favourable treatment to one person or a group because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief. The Advertisement does not create a negative impression of people of a particular race, nationality or ethnicity. The men in the Advertisement are depicted as interacting in a way which is jovial and affable. The interactions do not have any racist connotations or undertones, nor does the Advertisement when considered as a whole.

Additionally, the Advertisement does not contain unfair or less favourable treatment, or promote the unfair or less favourable treatment of any person on the basis of race, nationality or ethnicity. The complainant states that “the darker haired ethnic characters [Guy One and Guy Two] are exposing their flabby bellies like apes against a chain link wire

fence and asking for food from the sandy haired blonde anglo man [Cam]”. The actual purpose of Guy One and Guy Two pressing their stomachs against the mesh construction fence is to create the illusion of them having a sixpack while they light-heartedly poke fun at Cam over his Healthy Choice meal. This comical scene is exacerbated by Guy One and Guy Two wiggling and flexing to complete the look of them being “ripped”. The Advertisement is intended to depict an amusing stereotype of a typical worksite lunch scene and McCain rejects that the Advertisement is discriminatory in any way.

Vilification The Determination Summary defines “vilification” as –

Humiliates, intimidates, incites hatred towards, contempt for, or ridicule of one person or a group of people because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief. Vilify, or vilification, is a strong term which means to speak evil of or defame. Section 2.1 sets a high threshold, in that the Advertisement must not portray people or depict material in a manner that vilifies a person, or section of the community on account of race, nationality or ethnicity. The Australian Communications and Media Authority, when considering clause 1.3(a) of the Commercial Radio Australia Codes of Practice and the phrase “likely to vilify” notes “a finding of vilification still requires a high level of seriousness because it entails a serious degree of hurtfulness and intention” (see Australian Communications and Media Authority (2009) Investigation Report No. 2299) (emphasis added). The Advertisement does not vilify and there is no hurtfulness projected by the Advertisement.

The Advertisement is intended to be light-hearted and to project positive messages about the benefits of a balanced diet and the empowerment that comes with making healthy dietary choices. McCain rejects any suggestion that the Advertisement vilifies any person or group of people because of their race, ethnicity or nationality.

Other Considerations under the Code McCain notes that in addition to considering specific issues raised by the individual complainant, the ASB will also review the Advertisement in its entirety against the Code.

McCain is of the view that the Advertisement does not raise any further issues under the Code.

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 is racist in its depiction of an Anglo Australian not sharing his food with his ethnic co-workers. 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 the advertisement features a group of male construction workers having a lunch break together and that the man who has brought in his own lunch featuring quinoa is teased by his colleagues for being health conscious. The Board noted the complainant’s concern that the man with the healthy choice meal has

“blonde sandy hair” and that his colleagues are all “ethnic characters”. The Board noted that the man eating the healthy choice meal has dark hair and that his colleagues do not appear to be markedly different to him in terms of skin colouring, race or ethnicity. The Board noted that the focus of the advertisement is the man’s choice of healthy meal and not the ethnic backgrounds of any of the actors in the advertisement. The Board considered that the complainant’s interpretation of the advertisement would be unlikely to be shared by the broader community. The Board considered overall that the advertisement does not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of their race or ethnicity. The Board determined that the advertisement did not breach Section 2.1 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.