



Case Report

1	Case Number	0570/17
2	Advertiser	VIMN
3	Product	Health Products
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	24/01/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television infomercial depicts the daily habits of a man and a woman, looking at their 'ethos, workouts and eats' and promotes a range of products to assist in healthy diet in conjunction with the extensive exercise of both the man and the woman.

THE COMPLAINT

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

Teenagers are under so much pressure already with online media and body shaming. Showing a guy with ridiculous muscles and a girl with breast implants saying drinking this tea will make you look like this. It also says they exercise all day. They also do yoga as downtime. How can kids live up to this when they should be focused on studies and being kids not on how they look. It's disturbing to watch. Can not believe it got to air.

THE ADVERTISER'S RESPONSE

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

We refer to a piece of MTV Fit Protein World Chemist Warehouse Content (the Ad) created and placed by VIMN Australia Pty Limited (VIMN) and viewed by the complainant on the MTV Australian subscription television channel (MTV) at 1:20pm 15 November 2017.

Description of the Ad

VIMN's branded series "MTV Fit" explores the world of modern fitness heroes, in partnership with Chemist Warehouse & Protein World – the everyday person achieving physical and inner health greatness whilst living their everyday busy schedule.

The key messaging for the MTV audience is that a commitment to their passion, which in this case is supplemented by exercise and healthy eating (including the support of Protein World) will enable individuals to achieve greatness like these fitness influencers, a couple named Jamie Allen and Kayne Lawton. They are described as each other's "motivation".

Jamie Allen is a swimwear designer, who was inspired to dedicate time to fitness and yoga to model her own swimwear as a more economical option than hiring models. Meanwhile, Kayne Lawton refers to himself as a "late bloomer" who faced sporting adversity through his early years until his determination enabled him to qualify for a Queensland rugby club, before becoming an online health & fitness coach. He describes it as a career which is "rewarding to change people's lives" and fitness is a core part of his lifestyle.

Screenshots of the Ad have been attached as Annexure A to this Complaint response, and diagrams referenced throughout. The Ad itself is separated into 3 parts: i. Ethos; ii. Workout; and iii. Eats

Response to the Complaint, taking into account the AANA Advertising Code of Ethics: VIMN understands the essence of the Complaint is Section 2.6 of the AANA Advertising Code of Ethics (the Code) and our response focusses on this section. VIMN does not believe the Ad includes content requiring consideration under any other sections of the Code, being:

2.1 Discrimination or vilification

2.2 Exploitative and degrading

2.3 Violence

2.4 Sex, Sexuality and Nudity

2.5 Language

2.7 Distinguishable Advertising – sufficient disclosure of the commercial partnership

between MTV/VIMN, Protein World and Chemist Warehouse is provided with respect to the relevant audience (Diagram 1, Annexure A)

Since the Ad contains food and beverage products, a summary under "ASB Requested Material" is provided for full disclosure.

2.6: Health & Safety

Section 2.6 of the Code requires "advertising or marketing communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Ad, when viewed holistically, demonstrates a balanced, active lifestyle with healthy eating and a commitment to one's passion will enable both satisfaction and success. It is critical to note there is no inference consuming Protein World products will make one become like the depicted individuals, with "bigger muscles". This is Jamie and Kayne's story and journey.

The Code and accompanying AANA Advertising Code of Ethics Practice Note (Practice Note) does not provide a precise definition for Prevailing Community Standards, but the Board indicates it will have regard to those standards at the relevant time of the advertising, along with any research by the ASB.

To specifically address the Complaint in relation to the Code and Practice Note:

(1) Health and safety with reference to Prevailing Community Standards

The complainant states,

“showing drastic body image type” and “a woman and guy who work out excessively” on “a channel with a huge teen demographic is completely irresponsible to impressionable teenagers” and “damaging material to young impressionable minds”

VIMN believes this Ad does not demonstrate a drastic body image type. The physical state of the fitness influencers bodies is testament to hard work, determination and commitment to their goals and careers – modelling swimwear for Jamie’s photography role and being fit for Kayne’s coach responsibilities. Their appearance is their choice and they exercise as much as they want to. The work out, even if potentially deemed excessive by some, is a necessary part of fulfilling their occupations (Diagram 2 and 3; Annexure A).

While the MTV demo is ages 15-35, there is no inference the audience should aspire to become like these individuals, rather the messaging to the audience is that following one’s passion can allow one to be his/her ‘best self’.

“teenagers are under so much pressure already with online media and body shaming” and “with so much pressure already on kids to look perfect this promotes a distorted view on what is healthy”

VIMN acknowledges young people are generally exposed to significant pressure around body image, and the media has a responsibility in this regard. Nonetheless, resembling perfection is subjective and in VIMN’s view, this Ad does not promote a distorted view on what is healthy, rather it merely depicts two fitness influencers who are dedicated to an active and balanced lifestyle by exercising and eating well. The state of their bodies as particularly muscular, sleek and toned, like many other active and fit individuals, is a result of their routine and careers. Importantly, the consumption of the Protein World shake by Kayne includes a variety of other acknowledged healthy fruits like blueberries and banana, supplemented by water, in addition to the Protein World powder (Diagram 5, Annexure A).

“showing a guy with ridiculous muscles and a girl with breast implants saying drinking your tea will make you look like this”

VIMN contends “ridiculous muscles” is subjective, as Kayne’s muscles are legitimate and as a result of the gym equipment he engages with and the exercises he chooses to do – without illegal stimulants. It is not submitted in the Ad that Jamie has breast implants, and this has been insinuated by the complainant in the context of the Ad.

Further, VIMN never makes the statement that drinking the Protein World Slender Blend tea

will make an individual look like Kayne and Jamie. Rather, the inference is that drinking Protein World products is one beneficial part of a holistic balanced healthy lifestyle due to its suitability with “time restraints”.

“it also says they exercise all day and do yoga as downtime”

VIMN does not claim in the Ad the fitness influencers exercise all day. It is explicitly stated Kayne has a break mid-week.

Additionally, yoga as downtime is very common among the MTV demographic and audience to relax and clear one’s head. Again, it is the choice of the fitness influencers how they wish to spend their time unwinding.

“how can kids live up to this when they should be focused on studies and being kids not on how they looks. It’s disturbing to watch. Cannot believe it got to air”

It is important to note the fitness influencers are not kids but young adults, with Kayne aged 28 and Jamie aged 27. VIMN is committed to the ASTRA Code which provides that “The Licensee must take into account the intellectual and emotional maturity of the intended audience of the channel when scheduling advertisements...” (ASTRA Code, Section 6.5). Nonetheless, the MTV demographic does not consist of young children and our audience has the ability to discern the individuals in the Ad look and behave as such due to the fitness and diet choices they have made, relative to fulfilling their occupations. There is no suggestion the audience should excessively work out, lose weight or tone up other than their own desire to do so to also achieve their goals.

While it may be disturbing for the complainant to watch and this is his/her view, the intent of the Ad is to entertain, engage and aspire our young MTV audience to pursue their ambitions, in fitness or otherwise.

ASB Requested Material: For additional Information when advertisement is for a food or beverage product

1. *A statement about whether the advertisement is directed to children or not. No - not applicable*

2. *A statement about whether the advertised product is a product primarily directed to children.*

No - not applicable

3. *Details of the media schedule and whether or not the advertisement is placed in programming that has a predominant child audience or is in a program directed to children. The Ad was on the MTV channel which does not have a predominant child audience and it is not directed at children. The Ad played across the MTV channel seven (7) times per week for four (4) weeks. A TVC/cut down of the Ad is currently on rotation across MTV, MTV Music and MTV Dance.*

4. *Substantiation of any nutritional claims made in the advertisement.*

The Ad claims the broken down blended meal (Protein World Shake – Diagram 4; Annexure A) is easily digested and absorbed by the body as a pre-workout meal suitable for time constraints(3:17; Kayne), while the Protein World Slender Blend Tea (Diagram 6; Annexure A) in the afternoon provides a bit of energy to get through work as a ‘pick me up’ aiding bloating and digestion (3:31; Jamie)

In support of the above claims, the Protein World website provides information on the nutritional benefits of the product, including the following material on the Slender Blend Tea:

“It was created [with] no GMO ingredients & no added sugar...The Slender Blend is high in protein which supports the maintenance of muscle mass, but is also effective as a low calorie meal replacement, which in the context of a calorie controlled diet contributes to weight loss. Not only packed with Iron & Vitamin C to contribute to the normal function of the immune system, it is also naturally high in Vitamin B6 & B12 to reduce tiredness & fatigue...focusing our efforts on digestive health, we have added pre & probiotics, as well as two key digestive enzymes - Lactase and Protease”

Overall, the Ad suitably and positively discusses the achievement of health and fitness and in no way encourages unsafe or unhealthy behavior or practices. VIMN strives to promote and broadcast positive brand images of healthy and confident individuals on MTV and is therefore of the strong view we are not in breach of any aspect of the Code.

While VIMN does not consider the Ad raises Code concerns, VIMN highly values feedback and intends to monitor similar complaints in future to ensure advertisements are not unpleasant to a substantial percentage of the community.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”) and the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement suggests that drinking tea will make you look like the woman in the ad.

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

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board considered section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted that the television infomercial focused on the daily habits of a man and a woman, looking at their ‘ethos, workouts and eats’ and promotes a range of products to assist in healthy diet in conjunction with extensive exercise of both the man and the woman.

The Board considered that the focus on the advertisement was not on the product but on healthy lifestyles as a whole, and considered that the advertisement did not suggest that the tea or the protein product were likely to result in people looking like the subjects of the

advertisement.

In the Board's view the advertisement was not misleading or deceptive or otherwise contravene prevailing community standards, and did not breach Section 2.1 of the Food Code.

The Board then 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 complainant's concern that advertisement promotes drastic body types that are not attainable to most teenagers and the advertisement suggests that to look like the people in the advertisement you need to exercise all day and drink skinny tea.

The Board noted the advertiser's response that the advertisement was intended to show that a balanced, healthy lifestyle with healthy eating and commitment will lead to success.

The Board considered that the focus on the advertisement was on two people with extremely heavy work out loads for their sporting and modelling lives. The Board considered that the advertisement does not promote any activities which were harmful and makes it very clear that to achieve that type of body requires full time commitment.

The Board considered that the advertisement was not of itself likely to lead young people or any people into unhealthy lifestyles or behaviour.

The Board considered that the overall tone of the advertisement was positive and encouraging of a healthy lifestyle and this is not contrary to Prevailing Community Standards on health and safety and did not breach Section 2.6 of the Code.

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