



CASE REPORT

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| 1. Complaint reference number | 143/09 |
| 2. Advertiser | Nando's Australia Pty Ltd (TV) |
| 3. Product | Food & Beverages |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Gender - section 2.1
Portrayal of sex/sexuality/nudity – section 2.3
Other - Social values |
| 6. Date of determination | Wednesday, 22 April 2009 |
| 7. DETERMINATION | Upheld – discontinued or modified |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement commences with a restaurant scene where a woman wearing a low cut dress is sitting at a table, talking on her mobile phone. In front of her on the table is a plate containing burger and chips and a can of drink.

The woman looks down at her plate, asks the person on the phone to wait for a moment and then signals the waitress for assistance. The woman says to the waitress “Hi, where’s my chips?”. The waitress replies “they’re on your plate”. The woman looks down at her plate. The next scene shows a view from above, looking down at the woman’s breasts and the plate of food on the table. From this angle only the burger is visible on the plate.

The woman looks up at the waitress and says “No they’re not”. The waitress leans over and slowly moves the plate forward. The view from above again shows the woman’s breasts and the chips become visible as the plate is slid forward, away from the woman. The woman says “whoo, there they are”. Woman then attempts to drink from the straw in her drink.

As the voice over says “the bigger, fuller, bouncier double breasted burger from Nando’s”, the camera angle looks directly toward the woman, all that is visible is the burger, chips and drink in the foreground and the woman’s torso/breasts in the background.

THE COMPLAINT

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

It not only completely objectifies women, it asserts that women's breasts, therefore women, are something to be eaten. It is also sexually inappropriate for the time slot, regardless of the objectionable nature of the ad as a whole.

Not appropriate for families to witness on tv. Degrading for females. Not appropriate to be compared to a burger. Sex should not sell burgers. Not necessary.

The advert showed and had sexual connotations about the females breasts which were shown in a low cut top behind the burger. As a big breasted woman i found this to be offensive and think there are better ways to advertise a burger that contains 2 breast fillets in it. I also object to the time the ad was on which is when children/families sit down for tea or to watch television.

THE ADVERTISER’S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement

included the following:

The campaign was developed to advertise our 'Classic Double Breast Burger'. This product contains two chicken breasts. Nando's also sells a 'Classic Chicken Breast Burger', which contains one chicken breast. These products have been available at Nando's for many years and are sold internationally throughout the Nando's network.

The creative idea for the campaign is to have fun with the main point-of-difference of the Classic Double Breast Burger versus our standard Classic Double Breast Burger – the extra chicken breast. The light-hearted, tongue-in-cheek language used to describe this difference is 'bigger, fuller, bouncier'. Indeed, a chicken burger which contains double the quantity of chicken breast is bigger, fuller and dare I say bouncier. Consequently, Nando's does not see any issues in relation to The Code.

In response to complaint 143/09, Nando's also does not see any issues in relation to section 2.1 or section 2.3. The featured talent in the commercial is a female customer sitting in a Nando's outlet, who has ordered a double breast burger and the staff member who brings the meal to the table. The ad does not portray people or depict material in a way which discriminates against or vilifies based on gender. Equally, the commercial treats sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone. The advertisement received a 'W' rating and Nando's believes the behaviour and appearance of the talent is in line with this rating. The media buy was also in accordance with a 'W' rating.

While we regret having upset members of our audience, we do not believe that the campaign contravenes the code.

As a company, we are very proud of our irreverent brand nature, but we are also proud of our international policy, which states that Nando's is for everyone. We will therefore take these complaints into account when considering future advertising campaigns.

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 Communication Code (the "F&B Code").

The Board noted the complainants' concerns that the advertisement degraded and objectified women and had sexual connotations. The Board considered the application of the provisions of the Code relating to sex, sexuality and nudity, and discrimination and vilification on the basis of gender.

The Board considered that some members of the community would recognise the humour intended by the advertiser and regard the customer depicted in the advertisement as an over-the-top and ridiculous caricature, rather than finding it offensive. However, the Board also considered a significant proportion of the community would be offended by the advertisement and find that there was an element of sexuality and objectification of women that was concerning. On balance, the Board determined that the woman was depicted in the advertisement in such a way that was objectifying and demeaning and crossed the line in terms of discrimination towards women under Section 2.1 of the Code.

The Board therefore upheld the complaints.

ADVERTISER'S RESPONSE TO DETERMINATION

Comments which the advertiser made in response to the determination regarding this advertisement included the following:

I write to confirm that the advertisement in question has been discontinued by Nando's Australia.