



CASE REPORT

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| 1. Complaint reference number | 145/08 |
| 2. Advertiser | Kmart Australia Ltd |
| 3. Product | Clothing |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Gender - section 2.1
Health and safety – section 2.6 |
| 6. Date of determination | Monday, 19 May 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

We open on a view of a busy street through a shopwindow front. A woman, wearing only underwear, stops reading her paper, briefly looks at her watch, turns to the window, picks up her bag and rushes from her seat. Outside the window, a woman walks past pushing a pram, wearing only underwear. She briefly stops to browse in the shop window. A window cleaner is cleaning the window with a squeegee, he is wearing a pair of boxer underpants. At the same time, a car pulls up outside the shop window and two women get out wearing only underwear and carrying shopping bags. They rush up to the window to look in. The lady who had been inside the shop window, rushes to catch the taxi, just as it pulls away. As this scene unfolds a voiceover states "Don't miss 20-30% off underwear, socks, hosiery and sleepwear this week. It's more fun in your undies. Where? Where goodtimes start - Kmart." Last scene is a graphic of KMart Logo and text WHERE GOOD TIMES START. On sale 8am April 10, ends 6pm Wednesday April 16.

THE COMPLAINT

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

This ad is very graphical in its images of women, it DOES NOT display the average Australian body shape of women. Thus creates an unrealistic image for girls of what they should look like. ie grasshoppers in underwear. Very long legs, extremely skinny. All in all an image that could only be obtained by many women thru dangerous dieting or food starvation.

THE ADVERTISER'S RESPONSE

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

Kmart's advertising campaign 'More Fun in Your Undies' was prepared to promote Kmart's 20-30% off underwear sale. Kmart disagrees that this advertisement contravenes the AANA Advertiser Code of Ethics, and submits that it is indeed consistent with the Code's object of being 'legal, decent, honest and truthful'.

The 'More Fun in Your Undies' advertising campaign was prepared as a light and fun way of communicating to consumers the underwear sale. The advertisement portrays people carrying out 'everyday' activities in their underwear, such as hailing a cab, chatting with a friend, shopping, bike riding, window cleaning etc. These activities were chosen to portray the underlying message of the campaign, that even the most mundane activities when carried out in your underwear, can be fun.

The male and female models featured in the advertisement are wearing their underwear as is appropriate given the nature of the sale the commercial is promoting. As the Advertising Standards

Board has found in numerous previous determinations ‘images of people wearing underwear are not uncommon method of advertising underwear’ (see for example complaints 393/06 and 468a/06).

The complainant states that the advertisement “... does not display the average Australian body shape of a woman” and features “grasshoppers in underwear”. Kmart rejects the complainant’s submissions completely. The female models featured in this campaign were an Australian size 10 and the male models featured were classified as “medium” in terms of their size. It is Kmart’s position that the models featured appear fit, healthy, happy and enjoying life in the commercial, entirely appropriate for the fun mood the commercial is designed to convey. We reject the complainant’s pejorative references to the models’ appearance.

It is Kmart’s strong view that the advertisements does not contravene the AANA Advertiser Code of Ethics in any way, however the Advertising Standards Board will consider any issues raised under Section of the Code we provide the following information:

Section 2.1

It is Kmart’s position that the ‘More Fun in Your Undies’ advertisement does not portray either men or women in a way, which discriminates, or vilifies them or any other section of the community on the ground of sex or other relevant attribute.

The advertisement features 5 males and 6 females and at no time is any one person or group subjected to vilification, ridicule or any other negative experience.

Section 2.6

It is Kmart’s position that the ‘More Fun in your Undies’ advertisement is sensitive to prevailing community standards on health and safety. As stated above, the average size of the females featured in the campaign was an Australian size 10 and the males a medium size. When choosing models for an advertising campaign, Kmart is careful in its consideration to ensure that they project the appropriate image for the Kmart brand and are in line with their target audience and demographic. Moreover, Kmart’s merchandise appeals to large cross section of the community, retailing apparel and underwear ranges appropriate to children, teens, plus size and pregnant women as well as average size and larger size males. Kmart’s apparel and underwear size variation is extensive and appeals to people of all ages and sizes. Kmart is a family oriented retailer and does not seek to promote an “unrealistic image for girls of what they should look like”. Kmart has also made the business decision to not feature children wearing underwear in any advertising campaign for this very reason and has strict guidelines around how children can be depicted in advertising.

Finally, in relation to sensitivity to audience and relevant programme time zone we advise that the ‘More Fun in Your Undies’ advertisement received a ‘W’ classification from the Commercials Advice Pty Ltd (CAD), which classifies commercials under the Commercial Television Industry Code of Practice. The ‘W’ placement code classification states that care should be exercised in the placement of the advertisement in a program likely to attract a substantial child audience, but that material so classified may be broadcast at any time except during programs classified as P (preschool) and C (children). The airing of ‘More Fun in Your Undies’ was at all times consistent with its classification.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board viewed the television advertisement and noted that all of the models were wearing underwear and that there was no nudity.

The Board noted that the models in the advertisement were going about their daily activities and that there were no sexual references or sexualised behaviour.

The Board further noted that these images were acceptable in the context of the product being advertised and agreed that images of people wearing underwear to advertise underwear are not uncommon.

The Board considered the complainant's concerns that the models were skinny. They referred to the advertiser's response which stated the models as being within the normal size range.

The Board further considered that the models appeared to be slim rather than thin and that all appeared to be healthy.

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