



CASE REPORT

1. Complaint reference number	24/10
2. Advertiser	Crazy Domains
3. Product	Telecommunications
4. Type of advertisement	Pay TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 10 February 2010
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts Pamela Anderson in corporate attire and she is having a meeting. There is another woman featured in the advertisement with dark colored hair and several men. The advertisement depicts one of the office colleagues drifting off into a fantasy world and shows as part of his fantasy, Pamela Anderson and her female colleague wearing bikini's and getting sprayed with some milk. They are seen in sexualised positions and rubbing up against each other. The advertisement shows the man being asked a question by Pamela (his boss) and he gets shaken out of his fantasy. The man responds to her question and in the background, the other woman is depicted asking the man if he would like cream in his coffee - as she leans over to reveal her cleavage.

THE COMPLAINT

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

My objection is to do with Section 2 of the AANA Code, subsections 1 and 2. First of all, what has simulated/suggested lesbian sexual contact to do with the registration of internet domain names? Nothing. The explicitness of the suggested sexual contact was, in my opinion, too high a level. When bikini clad breasts brush together, it is either pornography or art. An ad for the registration of domain names? Neither pornography nor art. It is sexual exploitation.

The other aspect of this ad that bothered me was the fact that both of these sexually referenced women were part of the board meeting. This is a denigrating portrayal of women. So, women can be board members, chairpersons, personal assistants, but they have to also be attractive, scantily clad, objects of male fantasy, lesbians, etc.? How does this promote either the subject of the ad, or the status of women in business and also in society?

Women are not sexual objects only. Perhaps if this was an ad for a movie, or a sexually related product, or pornography, or Pamela Anderson's career/movie/TV show, then that's absolutely fine. But when what is advertised has nothing to do with sexually suggestible/explicit/stereotypes, then perhaps this is worth complaining about? Especially when it portrays women in a one-dimensional light and reinforces the idea that sure, women can achieve anything in society/business/etc, as long as they are sexually ready underneath that fake business suiting. Women are more than that. We deserve to be portrayed much better in advertising. But, whatever. I'll send this complaint off and I'm sure nothing will happen. Who cares? Maybe even I don't anymore. Do with this complaint what you will. If you want to throw it in the bin, at least set it on fire first.

Completely inappropriate and offensive, when people are just flicking through the channels, they should not have to be exposed to such degrading and pathetic material. The advertisement had nothing to do with the product being advertised.

In my opinion this is pornographic and completely unacceptable for television.

THE ADVERTISER'S RESPONSE

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

With regards section 2 of the AANA Code of Ethics we reject the legitimacy of the comments received by the ASB.

Technical points

Please note that the commercial has received CAD approval to be broadcast with an M rating (The CAD numbers for the commercial are; TVC40915 / MRBH7CBA & TVC40916 / MRBH8CBA.). We have rigorously applied this rating to all programming.

As per the Commercial Television Industry Code of Practice we have not scheduled or broadcast any airtime outside of the M time zone. No spots have been scheduled or broadcast prior to 20.30 on Free-to-air television. We have also responsibly selected programming for the schedule within the M time zone, ensuring that all spots appear in programming that has 'a predominantly adult audience', as per the Code of Practice.

With regards the programming and times of transmission that the complaints refer to, it is clear from the details of the complaints that we have followed this direction. The majority of the complaints refer to programming in the 23.00 time zone and in shows such as 'Most Shocking Moments' and 'Cold Case Files'; these programs deal with adult content and also have an M rating.

Our target audience is male 25-54 and all programming selections adhere to this demographics' viewing profile.

*We have not run any advertising on-line. The videos posted on You Tube have been done so by other parties. The commercial's appearance on You Tube is therefore beyond our control. **Section 2.1***

The commercial does not discriminate or vilify any person on the basis of sex or sexual preference as per section 2.1 of the AANA Code of Ethics. The commercial is intended to be comical, the characters, script and direction are all humorous in intent. The story line is a parody of office stereo types and pokes fun at a mundane event in a business. The role of sex and sexuality in the commercial is part of the overall joke.

The ad deliberately portrays the lead female character as the head of the business. Both principle female characters are clearly defined as attractive, dynamic and confident business people. The lead male character 'Adam' is portrayed as a little 'nerdy' and relative to his female colleagues' lacks confidence.

The commercial follows the events of a routine business meeting. As the meeting progresses the character 'Adam' begins daydreaming and imagines an obvious fantasy sequence portraying simulated 'mud-wrestling' in ice cream. This scene is a very deliberate over-the-top simulation that occurs in 'Adam's' imagination. The dream sequence, although sexual in nature, is not gratuitous. The sound-track, character reactions and theme for the sequence all poke fun at the sexuality of the fantasy. The fantasy is not pornographic and is obviously light-hearted.

No character in the commercial suffers any damage to reputation and no one suffers any adverse consequences that may lead to discrimination or vilification because of this scene. The portrayal of the female characters in the sequence is clearly limited to Adam's imagination.

The sequence shows that Adam has not been concentrating on his work and he relies on his familiarity with the product 'Crazy Domains' to avoid being caught-out when questioned by his boss. Thanks to the product Adam is able to save himself from embarrassment in front of his peers and boss. The intervention of Crazy Domains as the answer to the business problem posed to Adam by his boss is intended to be juxtaposed to the fantasy sequence and therefore humorous and memorable.

The fantasy sequence does portray sexual content however the commercial is restricted to an M

time zone when similar adult content is widely available.

We completely reject that any character in the commercial suffers directly or indirectly from the fantasy sequence or at any other point in the commercial. No one is discriminated against or vilified. The only negative outcome is the insight into the Adam character's imagination demonstrating his lack of attention and inability to control his desires at work. He suffers no negative consequences as a result. The sequence refers only to 'Adam's' imagination at that particular point in time. It is his musings and easy distraction which are meant to be over-the-top and funny, especially in the context of a meeting and when they are then so suddenly interrupted.

When considered in the context of past rulings by the ASB we feel confident that the spot adheres to the Board's interpretation of Section 2.1.

In the case of Unilever's Lynx Jet Commercial (ASB Case 194/09), the board stated in its ruling that 'the advertiser had specifically exaggerated the scenes in this advertisement to such an extent that the majority of people would clearly understand the advertiser's tongue-in-cheek approach to promoting its product. The Board was of the opinion that the majority of people would find this advertisement humorous rather than offensive... In light of the obvious exaggeration, the Board determined that the advertisement did not portray people or depict material which discriminated against them on account of their sex or their occupation.'

'The Board noted that the advertisement depicts a fantasy-style scenario of a jet for men where the female hostesses attend to their every need. The Board considered the depiction was completely over-the-top and ridiculous and could not be taken to be seriously suggesting that women are merely sexual objects. The Board therefore determined the advertisement was not discriminatory or vilifying of women generally and found no breach of Section 2.1 of the Code.'

We feel that the commercial for Crazy Domains should be viewed in a similar context, with humour and exaggeration being the clear intent of the advert. The ad cannot be taken seriously as an attempt to vilify or discriminate.

In the case of Coke Zero's 'Taste of Life' commercial (ASB Case 160/09), the board stated in its ruling that; 'most members of the community would regard the storyline, style and tone of the advertisement to be fanciful and pure fantasy, as the imaginings of the male character'.

Once again we feel the exaggerated nature as well as the clearly referenced fantasy sequence fall inside the Board's previous interpretations of the code.

Section 2.3

Broadcasting of the commercial has been sensitive to the relevant audience and time zone. We have followed all CAD instructions and the commercial only appeared in the M time zone slots, in selected programming.

Overall comments

The commercial has CAD approval and we have followed all instructions with regards broadcast restrictions as per section 2.3 of the code. The commercial does not discriminate or vilify as per section 2.1 on any basis. All characters in the advertisement are treated fairly and no negative consequences occur for any of them. The female characters are portrayed as strong, confident business women. Their sex is immaterial to the roles that they portray, the same sequence of events could have occurred in a number of different scenarios.

The commercial uses an adult theme of sexuality as a comical mechanic. The commercial is obviously not serious and is intended to make the audience laugh. The portrayal of women is positive in all aspects of the commercial, either as successful business people or as attractive women.

The content of the commercial is no more gratuitous than many pop videos or other commercials with a more explicit sexual theme or purpose. The difference between this commercial and other deliberately sexual material is that the commercial is funny and uses sex as a punch-line.

It was not our intention to cause any offense, only to entertain. A similar scenario to the commercial could easily occur in programming with an M restriction. There are numerous

examples of this type of scenario occurring in programming. In this instance sexuality has been used only as a comedy device and is at no point exploitative.

The commercial has only been broadcast at a time and in programming with an adult audience. We would never consider running the commercial at an earlier time or in unsuitable programming.

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 concerns that the advertisement was explicitly sexualised and demeaning to women and successful business people.

The Board viewed the advertisement.

The Board considered whether the advertisement was in breach of section 2.1 of the Code. Section 2.1 requires 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 ...sex.'

The Board noted that the women in the advertisement are initially depicted as chairing the meeting and therefore in a position of power but are then transformed in the eyes of the male colleague into bikinis and sexualised positions.

The Board considered that some people in the community would consider that this advertisement is an exaggerated and over-the-top depiction of a male fantasy that is intended to be humorous and is not a serious depiction of the way in which women should be treated. On the other hand, the Board noted the concerns of complainants that the advertisement objectified women and demeaned them by depicting them as sexual objects.

The Board considered that the images of the woman in bikinis in sexualised behaviour was a depiction which demeaned women. The Board considered that while the depiction of the man's fantasy may be a depiction of a stereotypical male fantasy, that the depiction was of behaviour in the workplace which is demeaning to women and inappropriate.

The Board noted the advertisers' intention that the advertisement is considered light hearted and an 'over-the-top' unrealistic depiction. The Board noted the advertiser's reference to a number of earlier Board decisions. The Board considered that the depiction in this particular advertisement was excessive and amounted to a breach of the Code, although some in the community would consider it humorous. The Board considered that the target audience may take this advertisement in the lighthearted fantasy that it was intended to be by the advertiser, but recognised that some members of the community would be upset by the depiction of women in a sexualised manner. The Board considered that most people in the community would consider that the depiction of the woman in this manner is sexist, objectifies the woman and amounts to discrimination against women. The Board determined that the advertisement did breach section 2.1 of the Code.

The Board noted that the advertisement depicts a male colleague having a sexual fantasy about his colleague or boss. The Board considered that the depiction of a man having a sexual fantasy is a stereotypical depiction of men. The Board considered that the advertisement's depiction of the man was not intended to be serious or a serious exhortation to such fantasies by all men and that it depicted the male as somewhat pathetic. The Board determined that although some members of the community would consider that this advertisement vilified men, the majority of the community would consider it humorous.

The Board considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states:

"Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and where appropriate the relevant programme time zone."

The Board noted that Pamela and her female colleague are initially, and at the conclusion of the advertisement, depicted wearing suits which reveal their cleavage. This image then changes to images of the woman in bikinis with a milky substance being poured over them. The Board noted that the

images include depiction of the headless women touching their breasts, having their bottoms close to each other, and their breasts rubbing. The Board considered that these particular images are strongly sexualised. The Board noted that the depictions have no relevance to the product. The Board noted that the advertisement is shown on Pay TV and that it is directed to a mature male audience. The Board considered that although available to a predominantly mature audience, the advertisement did contain material that is highly sexualised and appropriate to a more restrictive time zone. The Board determined that the advertisement did not treat sex and sexuality with sensitivity to the relevant audience. The Board determined that the advertisement was in breach of section 2.3 of the Code.

Finding that the advertisement breached section 2.1 and 2.3 of the Code, the Board upheld the complaint.

ADVERTISERS'S RESPONSE TO THE DETERMINATION

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

Our client has considered the Board's report and disagrees with the Board's determination that the advert breaches section 2 of the Advertiser's Code of Ethics (the "Code").

Our client instructs us that it has engaged a reputable marketing company to render and produce the advertisement. The marketing company has considered various advertisements that the Board has reviewed in the past with particular emphasis on discrimination based on gender and sexual vilification of the male or female gender.

As you are aware our client is in the Internet Service Provider Industry and the fees and services provided by these internet service providers are highly competitive in the market, our client required an advertisement that would attract viewers requiring premium internet services at a competitive price.

Adam the male member at the meeting in the advertisement is depicted as male colleague fantasising about his two female colleague's and in order to portray his fantasy, the scenes of Pamela Anderson and the other female colleague are depicted performing pseudo-sexual movements and having milk or a whitish liquid poured over them, to show Adam's mind drifting while the rest of the members of the meeting are trying hard to come up with a name for the new services provided by the company.

Yet when Adam is asked about what would an ideal name be for the provision of the services, Adam replies "crazy domains dot com dot au" which actually shows that even Adam knows that his fantasies about his female colleagues is outrageous and over the top, and as such "crazy" in the literal sense of the word. In our opinion members of the community would regard the storyline, style and tone of the advertisement to be light-hearted and pure fantasy. The intended message is that Crazy Domains are providing premium domain name services for fraction of the costs charged by other similar providers, which one would colloquially refer to as "First class services at a crazy price".

We further note that our client specifically intended that the advertisement should be exaggerated to such an extent that the majority of viewers would clearly understand the advertiser's tongue in cheek approach to promoting its services. It is our client's submissions that the depiction of the whole advertisement was completely over the top and ridiculous that ordinary viewers would not take it seriously that women are merely sexual objects. This is further evidence of the advertiser's tongue in cheek approach to its product.

*We are further instructed by our client that the complaints were launched maliciously by a group of persons with vested interests. We refer the Board to the following link - :
<http://logansrogue.livejournal.com/1327524.html>*

which will corroborate our client's allegation that their advertisement has been the subject of discontent for the feminist bloggers on the said site. We are sure the Board will note that the bloggers on this site do not represent the majority of society who are reasonably minded and less sensitive to an advertisement with a tongue in cheek approach.

We request if a further review will be undertaken with respect to this matter bearing in mind the previous cases determined by the board.