



CASE REPORT

1. Complaint reference number	274/09
2. Advertiser	Yum! Restaurants International - KFC
3. Product	Food and Beverages
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 8 July 2009
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a man driving a truck discussing the freshness of the chicken that is delivered to KFC restaurants. The advertisement first depicts a number of images of the driver driving the truck which appear to be shot from a passenger side view. In the first two images the driver is clearly wearing a seat belt. In the third image there is a shot of the man from the waist up with no apparent seat belt.

There are then various images of a KFC restaurant, the truck arriving at a restaurant and the driver alighting from the truck.

THE COMPLAINT

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

The advertisement breaches section 2.6 of the AANA Code of Ethics in that it fails to depict compliance with prevailing community standards on health and safety.

THE ADVERTISER'S RESPONSE

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

THE ADVERTISEMENT - 'TRUCK DRIVER'

This is a 30 second brand advertisement which focuses on an Inghams truck driver delivering 'fresh chicken to a KFC store (the Advertisement). The Advertisement is created in such style that the truck driver speaks directly to the camera which gives the viewer the impression that he is engaging in a personal conversation with them.

THE COMPLAINT

In short, the complaint states that the Advertisement depicts that the truck driver is not wearing a seatbelt while driving.

AUSTRALIAN ASSOCIATION OF NATIONAL ADVERTISERS CODE OF ETHICS (THE CODE)

The applicable provision of the Code is section 2.6, which provides that Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

HAS THE CODE BEEN BREACHED?

The Advertisement opens with an image of the truck driver facing the camera wearing a seatbelt while driving his truck. There is then a change in camera angle to a side view such that the viewer is given the impression that they are sitting in the passenger seat of the cabin while the truck driver continues to speak directly to them. It is during this scene that it may appear as though a seatbelt is not being worn.

This aspect of the Advertisement (which runs for approximately three seconds) is sufficiently fleeting and of insufficient detail as to make it generally unnoticeable that the driver appears not to be wearing a seatbelt. Furthermore, given that this phase runs on directly from the opening scene (during which a seatbelt is shown to be worn), the Advertisement creates the expectation with its audience that a seatbelt is in fact still securely in place.

For the reasons outlined in this response, we do not believe that the Advertisement presents a depiction of material which contravenes section 2.6 of the Code.

Yum! Restaurants International is committed to complying with the Code and all applicable laws related to advertising. Yum! will continue to ensure that its advertisements do not offend prevailing community standards.

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 depicts the truck driver not wearing a seat belt.

The Board carefully viewed the advertisement. The Board noted that the first two images of the driver clearly depict him wearing a seatbelt but that in the third image it is clear that there is no seat belt being worn. The Board noted that this is a fairly brief part of the advertisement but also noted that the advertiser did not state that the driver was wearing a seatbelt in that part of the advertisement. The Board noted that section 2.6 of the Code prohibits depictions of material that contravene prevailing community standards on health and safety and considered that wearing a seatbelt while driving a vehicle is a key factor in road safety and is a legal requirement. The Board considered that there were no other factors in the advertisement that mitigated against the very realistic presentation of the man driving a truck. The Board determined that a depiction of a person driving a vehicle where it is clear that there is not a seat belt being worn is a breach of section 2.6 of the Code.

Finding that the advertisement breached the Code the Board upheld the complaint.

ADVERTISER'S RESPONSE TO THE DETERMINATION

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

We refer to your email of last Thursday and the Board's decision with respect to complaint 274/09.

In that regard, we have now modified the Advertisement to ensure that the truck driver's seatbelt is visible at all times when he is seen driving. We attach the modified advertisement which has been dispatched to television stations.

Yum! Restaurants International is committed to complying with the Code and all applicable laws related to advertising. Yum! will continue to ensure that its advertisements do not offend prevailing community standards.