



CASE REPORT

1. Complaint reference number	286/07
2. Advertiser	H J Heinz Co Aust Ltd (Baked Beans - Christine)
3. Product	Food & Beverages
4. Type of advertisement	TV
5. Nature of complaint	Discrimination or vilification Sexual preference – section 2.1
6. Date of determination	Tuesday, 11 September 2007
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens in a supermarket where two men in their early 50's both reach for the same can of Heinz Baked Beans. As their hands accidentally touch, one man (Chris) recognises the other from school and asks "Ryan Phillips?!!" Ryan looks at him closely, but obviously doesn't recognise him until Chris explains "It's me, Christine..." Ryan now looks at him suspiciously so the Chris elaborates "...from Rosanna High?" Suddenly Ryan has a flashback as he remembers kissing Christine behind the shelter sheds at their Secondary School. Ryan, realising the implications and feeling uncomfortable replies "Christine..?...Ha...phew... I...I...I see you still like your baked beans?" to which Chris replies "Some things never change hey!!?" He laughs as he pokes Ryan in the stomach. Ryan exhales awkwardly. Text onscreen reads "Some things never change."

THE COMPLAINT

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

The kissing scene was far too graphic... To show young youths kiss that way is inappropriate, especially when so much tongue was shown in such a distasteful way. Also the whole concept of this man having a gender change is also not appropriate for children and is just unnecessary and uncalled for.

It is about the issue of sex changes and that one of these men was previously a women (sic).

I object most strongly to this advertisement for two reasons ... firstly it should not be necessary to show this sort of activity at all and particularly not in the time slots when children would be watching ... and secondly I wince at the thought of these particular two young girls having been directed to behave in such a fashion for the titillation of those who were watching and organising this advertisement.

This ad...shows explicit sexually arousing kissing, and indicates that it is quite normal for young people to change their gender, and indicates that it is quite normal for young boys & girls to behave this way.

...the overt and overstated sexuality of the ad, both in the adolescent 'tongue' kiss and the issues surrounding sexuality, sex changes, which I and others in my family find distasteful, irrelevant, offensive, purile, immature and unnecessary.

The kiss is a disgusting example of "tongue kissing" which is stomach-turning and innapropriate.

I find it disgusting and very offensive myself and absolutely (sic) not appropriate for children to watch. I just dont think they need such full on tongue kissing and the whole subject of sex change for an ad for beans.

It is absolutely inappropriate. It portrays unnatural sexuality involving the image of teenagers. Young children who watched it might perceived wrongly about the right or wrong to alter one's sexual orientation. Heinz might argue that they accept anyone from any background, but sex change is unnatural and is against the norm of society.

I consider that it is inappropriate to be raising gender-change issues in an ad for baked beans.

It portrays sex/gender change. It shows school children engaging in passionate and sexual behaviour.

We find the implication and realisation of the man kissing the girl who is now a man offensive and disturbing...the girl who is now a man has been portrayed in a feminine and creepy way.

It indicates some sort of transexual perversion and display tongue kissing in a very graphical way. This is pornographic. It is an insult to normal MEN.

I found the whole sex change theme of this advertisment to be extremely offensive.

It is providing a palatform of influence on our younger generation that same sex relationships/gender change are a common occurence and "funny" to see.

Because I think its terrible to have young children kissing like this to sell beans.

THE ADVERTISER'S RESPONSE

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

It was not and is not our intention to unduly upset our audience. We have a marketing objective and considerable investment to sell more Baked Beans. It would not make commercial sense for us to intentionally offend our audience. Notwithstanding this, we respect and appreciate feedback and understand that featuring teenagers kissing and a man having had a gender change may be somewhat provocative.

The primary message of the commercial is that some things never change. To communicate this point creatively, the commercial depicts a scenario that is intended to be humourous. The commercial's message suggests that despite what else may change, some things never do. In this case, the two men still enjoy their baked beans – despite one of the men having had a gender change. The kissing scene was quite creatively deliberate. It was designed to emphasize the character's awkwardness and help tell the story. It was not intended to be gratuitous.

With respect to the inappropriate media placement claim, we have taken great care to seek pre and final approval from FACTs. According to FACTs, the subject matter of the commercial was deemed appropriate for general viewing. It obtained a W rating. To this end, we have exercised care so as to ensure it does not appear in or adjacent to any programming promoted to children or with a substantial child audience. It is our belief that the commercial is not inappropriate for general viewing and the complainant's views do not represent the broader majority of our audience.

Heinz Australia and its agencies are strong supporters of the AANA Code of Ethics and we consequently take matters such as this very seriously. In this instance, we believe it is without foundation and anticipate our broader audience will consider the commercial and view it with the humour that was intended.

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 that the two concerns from complainants were that the scene of a boy and girl kissing was inappropriate, as is the concept of a gender change in an advertisement.

The Board considered the scene which depicts a teenage boy and teenage girl kissing awkwardly in the school playground. The Board noted concerns that this scene was inappropriately sexual or inappropriate per se. The Board considered that a scene of teenagers kissing was not of itself

inappropriate. In relation to this particular scene the Board considered that the scene deliberately depicted an awkward situation intentionally reminiscent of teenage years. The Board considered that this depiction was a parody of teenagers kissing and was not of itself provocative or gratuitous. The Board determined that this scene treated teenage sexuality with sensitivity to the relevant audience and did not breach Section 2.3 of the Code.

The Board then considered the references in the advertisement to one of the men having changed gender. The Board considered that the treatment of the issue was not done in a sexual manner and was treated with respect. The Board noted that some members of the community may prefer not to view an advertisement with a theme of gender alignment, but was of the view that the references to gender realignment were sensitive to the relevant audience and not offensive. The Board determined that the advertisement treated the issue of gender realignment with sensitivity and did not breach Section 2.3 of the Code.

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