



CASE REPORT

1. Complaint reference number	321/09
2. Advertiser	Nando's (Bruno)
3. Product	Food & Beverages
4. Type of advertisement	Internet
5. Nature of complaint	Discrimination or vilification Gender - section 2.1 Portrayal of sex/sexuality/nudity – section 2.3
6. Date of determination	Wednesday, 26 August 2009
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

Internet YouTube advertisement shows the premiere of the opening for the film "Bruno" and an imposter (impersonating the character Bruno) arriving in a stretch Hummer accompanied by two men and five women. The women are wearing T-shirts with the words "Peri Peri" on the front with signage promoting "Nando's". Following each of the women pouring a bucket of Peri Peri sauce down their fronts, a security guard comes and grabs the Bruno impersonator by the arm and removes him from the scene. At the same time, the impersonator remarks: "he has his man hands all over me, I feel raped ladies and gentlemen, I feel raped."

THE COMPLAINT

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

This is an viral ad for people to look at on YouTube and email to other people. Anyone interested in the Bruno opening parties will see it. The language is sexist and demeaning and the final 'joke' about being raped is just outrageous. To link rape to selling greasy chicken to children is disgusting. The audience at the opening had children there and the Internet will have a much larger audience. As this is stage managed they would have rehearsed the words and the outcomes and placed cameras to record this for a larger audience. They also link their Nando's website to YouTube. Their current campaign is "portugasm" with really creepy sexual overtones. It is really off that they have a rape connection to selling food to teenagers.

THE ADVERTISER'S RESPONSE

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

Portrayal of sex/sexuality/nudity – section 2.3

There is only an incidental reference to sex or sexuality in the context of the actor's comment.

The reference to feeling like he was being raped when treated roughly by security guards in the context of the stunt being played out at the Australian premiere and the portrayal of the fake Bruno character, in our opinion, is not so insensitive to the relevant audience to cause serious offense and damage.

The movie BRUNO is rated M15+ and is not targeted at young children. The nature of the content covered in the movie is pervasive, strong and crude. The Nando's stunt sought to capture the same sentiment but at a more playful or cheeky level. No offensive language was used. The comment did

not intentionally seek to refer to the criminal act of rape nor can the comment be seen to take any positive view of rape. We believe that anyone viewing the viral would clearly recognize that it was an over the top stunt designed to echo the essence of the BRUNO character including his words and behaviour, but without reference to the same pervasive, strong and crude content depicted in the BRUNO movie.

Nando's is a fast casual dining outlet. Our main target market is people between 25 and 32 years-of age; the same target market as viewers of the BRUNO movie. With a developed understanding of promotional activities and satire, consumers in the target market viewing the viral presented on YouTube and the Nando's website would not in any way consider the comment to be insensitive or offensive.

For these reasons we strongly believe that the AANA Advertiser Code of Ethics has not been breached.

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 language used in the advertisement was sexist and demeaning and the final 'joke' about being raped was outrageous and unacceptable and did not relate to the product sold by Nando's in any way.

The Board considered whether the advertisement breached sections 2.2, 2.3, 2.5 and 2.6 of the Code.

Section 2.2 of the Code states that:

"Advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

The Board considered whether there was any depiction of violence in the advertisement. The Board agreed that there was no actual or implied violence in the advertisement.

The Board then considered whether the advertisement presented sex, sexuality or nudity in a manner that was sensitive to the relevant audience and in accordance with section 2.3 of the Code. The Board considered that the women who had poured the Peri Peri sauce over themselves were not inappropriately dressed and that there was no inappropriate sexual material in the advertisement. The Board considered that the depiction of the women in this manner, that is, comparing the women to 'chicks' and 'chicken' (the product), was not demeaning and did not amount to discrimination or vilification of women.

The Board then considered whether the advertisement breached Section 2.5 of the Code. Section 2.5 of the Code states that:

"Advertisements shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided."

The Board noted that the use of the word "rape" in and of itself was not a breach of the Code. However, the Board considered that the use of term in a humorous context trivialises the seriousness of rape and that the use of this term was not appropriate.

The Board then considered whether the advertisement was contrary to prevailing community standards in accordance with Section 2.6 of the Code. Section 2.6 of the Code states that:

"Advertisements shall not depict material contrary to prevailing community standards on health and safety."

The Board noted that the use of the term "rape" (in a situation that is impersonating a character from a movie), was made in the context of performance art and was intended to be seen as humorous. Some members of the Board considered that the reference to "rape" was not offensive, as the depiction was in the context of a 'spoof' of a character in a film. However the majority of the Board considered that the marketing communication depicts a situation where a person cries 'rape' in a situation that is not serious and that this would be perceived as trivialising the intolerable act of rape. The Board noted that while the material mimics a character from a movie, the product advertised is not the movie -

rather it is chicken. The Board considered that the behaviour of crying 'rape', in a situation where there is no rape occurring would be considered by the prevailing community to be contrary to acceptable behaviour because it assists in perpetuating views that people make up rape allegations.

The Board noted that the nature of the product and the medium, YouTube, makes it likely that the marketing communication would be accessible by young people. The Board considered there was a real risk of normalising the trivialisation of rape and was insensitive to those who may have either directly or indirectly, been victims of rape. The Board considered that the community views rape and allegations of rape as a serious community health and safety issue.

The Board considered that the use of humour in this instance, did not temper the inappropriate use of the word "rape" or the reference to rape but in fact exacerbated the offensiveness and insensitivity to prevailing community attitudes. The Board also considered that the advertisement made light of the severity and gravity of the physical, psychological and emotional harm caused to victims of rape and was inconsistent with prevailing community standards. The Board regarded this particular reference in the advertisement, to be in breach of Section 2.6 of the Code.

The Board noted, in upholding the complaint, that the removal of the reference to 'rape' would alleviate the breach of the Code.

ADVERTISER'S RESPONSE TO THE DETERMINATION

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

Nando's will modify the footage in line with the Board's determination, and remove the reference to alleviate the breach.