



CASE REPORT

1. Complaint reference number	322/04
2. Advertiser	Nestle Australia Ltd (Milky Bar)
3. Product	Food
4. Type of advertisement	TV
5. Nature of complaint	Discrimination or vilification Gender - section 2.1
6. Date of determination	Tuesday, 7 December 2004
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a group of children drinking milk from cartons in a park. Two boys grab milk from them and start pouring it onto the ground. The Milky Bar kid arrives and uses special vision to “freeze” the milk into white chocolate. Other children then pour milk onto bullies and the Kid freezes that also.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

“My problem with this advertisement is as follows: The “Milkybar Kid” is reminiscent of some fictional character of the 1960’s – 1970’s. This character seriously requires updating. I would appreciate Nestle considering a female to play this role in the future.”

THE ADVERTISER’S RESPONSE

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

“This is the first new Milkybar Kid ad that we have produced in a few years, and our intention was to update his look to be better in tune with children of today, whilst still maintaining the iconic nature of the Milkybar Kid that many generations have grown up with over the years.”

“We have taken many steps to ensure that our advertisement does not engender any stereotypes. We included a cross section of children (boys and girls and of various backgrounds) to be representative to society in Australia ; they are collectively shown in a typical Australian playground setting and collectively enjoy each other’s company. We do not understand any suggestion that this advertisement portrays females as victims or interferes with basic human rights. Indeed the opposite occurs, where the children collectively are empowered to stand up for themselves (inspired by the Milkybar Kid).”

THE DETERMINATION

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

The Board was of the view that in the context of prevailing community standards, the majority of people would not find this advertisement offensive.

The Board found that the depiction did not contravene the provisions of the Code relating to the portrayal of people (sex).

Further finding that the advertisement did not breach the Code on any other grounds, the Board

dismissed the complaint.