



CASE REPORT

1. Complaint reference number	349/09
2. Advertiser	Coles
3. Product	Health products
4. Type of advertisement	TV
5. Nature of complaint	Discrimination or vilification Gender - section 2.1
6. Date of determination	Wednesday, 12 August 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

Television advertisement on feminine hygiene products. Coles offers to pay the GST on women's hygiene products.

THE COMPLAINT

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

This advert is in breach of EO laws prohibiting companies and or individuals from discriminating against groups or individuals based on gender. The Coles group did not offer the same deal to the male population and the advert was solely geared to women and women's personal hygiene products.

I object to this advertisement as it is blatantly discriminating against men by only providing this offer to women, with no comparable offer to the other 50% of the population (men). I am not aware of any examples of men being offered a similar discount by any company or service. It is another in a long line of implicit and explicit discrimination against men that is silently pervading our advertising and culture (the statistically erroneous and discriminatory SGIC 'women are safer drivers' insurance discounts, and female only gyms are two recent examples).

I just happened to have left the TV on while recovering from surgery, and I couldn't believe my ears; I also can't believe I'm going to the trouble of writing about this, but Coles shouldn't be let to get away with it.

THE ADVERTISER'S RESPONSE

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

We refer to the complaint received by the Advertising Standards Bureau that the "GST Free" advertising campaign to reduce the cost of feminine hygiene products by a sum equivalent to the GST payable on the regular price (GST Free Campaign) is a breach of s 2.1 of the AANA Advertiser Code of Ethics. The substance of the complaint appears to be that the same deal was not offered to men and the advert was solely geared to women and women's personal hygiene products.

I am instructed to respond to you as follows.

The advertising for the GST Free Campaign does not breach s 2.1 as it neither portrays people nor depicts material in a way that discriminates against or vilifies men. No discrimination or vilification occurs in the advertisement and it is not a breach of the code to promote products which are only applicable to or used by sectors of the community: consider nappies for children or kosher food for instance.

In any event, anyone of either gender may purchase the products and receive the benefit of the discount. Feminine hygiene products are no less a household item for most families than male deodorant.

Incidentally, the idea behind GST Free Campaign is intended to be continued by Coles and will be applied to other products in the future, some of which will be able to be consumed by both men and women. This is only one of a number of customer-focused value offerings Coles will be making in the coming months.

THE DETERMINATION

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

The Board considered the application of Section 2.1 of the Code, relating to discrimination and vilification. The Board considered whether the advertisement was discriminatory to men because the promotion of feminine hygiene products were offered to consumers “GST free”.

The Board also considered the promotional slogan: “shouldn’t be taxed for being a woman”.

The Board noted the advertiser’s response that the offer extended to either gender who purchased the female hygiene products and that the “GST free” campaign is intended to be extended to other products in the future. The Board noted that it is not the role of the Board to determine to which sex products are marketed and whether specials for a female only product are discriminatory.

The Board determined that the advertisement was not an anti-male campaign or discriminatory towards men and therefore that Section 2.1 was not breached.

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