



## **CASE REPORT**

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| 1. Complaint reference number | 361/09  |
| 2. Advertiser                 | Kimberly-Clarke                                     |
| 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**

Young woman and her boyfriend are together on a park bench, discussing what the woman would need if she were stranded on a deserted island and could only take the bare essentials. The advertisement then depicts the scene that is played in her imagination. The next scene shows the woman on the beach in a bikini top and shorts, she says she would need music, a tent, some clothes, plenty of fluids and then says to her boyfriend, I would need you for protection. The advertisement then shows a beaver sitting next to the woman on the deserted island, holding a packet of Kotex new ultra thin, max protection. The advertisement then cuts back to the park bench and the beaver is on the bench holding a packet of Kotex ultra thins. The voice over says: "New Ultra Thins, micro thin, max protection, new for the ultimate care down there".

## **THE COMPLAINT**

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

*I would like to complain about the Kotex advertisement which has a beaver in it and talks about "down there" this ad is in extremely poor taste.*

*The "beaver" aspect of the ad concerned me the first time I saw it and I couldn't believe that this was actually what they were referring to. I don't know anyone who calls their vagina their "beaver" and I find it extremely offensive and degrading to women.*

*This is the second ad of the series and I think this one is actually worse. The positioning of the "beaver" is just "off". It is positioned directly where the woman's vagina is.*

*I just think the whole thing is disgusting and not funny in the slightest.*

*I just wonder if a man was running the marketing campaign! Surely they can get their message through some other way.*

## **THE ADVERTISER'S RESPONSE**

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

*I refer to your email dated 27 July 2009 regarding a complaint which the Advertising Standards Bureau has received concerning a 30 second TVC for "U" by Kotex® Ultrathins Pads.*

*We attach a copy of the TVC and script as requested. We also advise that the advertising agency responsible for making the TVC was The Brand Shop and our media buyer was Mindshare Australia.*

*The complainant states that she was concerned by the "beaver" aspect of the TVC because she*

*found it extremely offensive and degrading to women. The TVC is intended to inform prospective purchasers in the target audience of one of the benefits of the advertised pad product namely that it provides maximum protection for the user yet is microthin.*

*The TVC again uses the beaver analogy in an amusing and playful way. This analogy is central to this advertising campaign and is well understood by the target audience. Complaints have been received in relation to the previous TVCs in this campaign (Complaint Reference Numbers 95/08, 189/08, 370/08 and 193/09). The Board has dismissed all these complaints.*

*In the first Determination (Complaint Reference Number 95/08) the Board noted that the Australian Macquarie Dictionary did not define “beaver” as a derogatory term. The Board also noted that it did not believe the word “beaver” was a derogatory term and agreed that the majority of the Australian community would be of the same belief.*

*In addition the Board found that the use of a “beaver” in the TVC was playful and that it was an acceptable euphemism as it was relevant to the target audience (young women between the ages of 18 and 24).*

*The Board also noted that the TVC was a progressive way to advertise fem-care products given that it is a difficult product to advertise because the use of the product cannot be shown in a realistic way. We submit that the Board’s findings in relation to the earlier TVCs apply equally to the current TVC. We also submit that the latest complaint raises issues which have already been considered by the Board in earlier decisions, which determined the relevant TVCs did not breach Section 2 of the AANA Advertiser Code of Ethics. Accordingly we request that the current complaint be dismissed.*

*Considering the TVC with reference to the various Sections of the AANA Advertiser Code of Ethics we submit as follows:*

**Section 2.1** *Advertisements shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.*

*There is no portrayal of people or depiction of material which discriminates against a section of the community (women) on account of sex. The TVC advertises a product that is of use to women during their menstrual cycle.*

**Section 2.2** *Advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised.*

*There is no violence portrayed in the TVC.*

**Section 2.3** *Advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.*

*The TVC does not deal with sex, sexuality or nudity. If menstruation/vaginal care is regarded by some as sexuality, which we dispute, we submit the TVC is sensitive to the relevant audience and given the classification of the TVC, M, to the relevant time zone.*

**Section 2.4** *Advertisements which, having regard to the theme, visuals and language used, are directed primarily to children aged 14 years or younger and are for goods, services and facilities which are targeted toward and have principal appeal to children, shall comply with the AANA’s Code of Advertising to Children and section 2.6 of this Code shall not apply to advertisements to which AANA’s Code of Advertising to Children applies.*

*The TVC is not directed to children aged 14 years or younger. Indeed it has been given an “M” rating.*

**Section 2.5** *Advertisements shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.*

*As discussed above there is minimal language in the TVC and that language is neither strong nor obscene.*

**Section 2.6** Advertisements shall not depict material contrary to prevailing community standards on health and safety.

*The TVC does not depict material contrary to prevailing community standards on health and safety. The TVC deals with neither health nor safety.*

**Section 2.7** Advertisements for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles and section 2.6 of this Code shall not apply to advertisements to which the Federal Chamber of Automotive Industries Code of Practice applies.

*The TVC does not advertise motor vehicles.*

**Section 2.8** Advertisements for food and beverage products shall comply with the AANA Food & Beverages Marketing Communications Code (once promulgated) as well as to the provisions of this Advertiser Code of Ethics.

*The TVC does not advertise food or beverage products.*

*We believe that the TVC complies with the AANA Advertiser Code of Ethics. Accordingly we submit that the complaints should be dismissed.*

## **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 complainants' concerns about the advertisement's image of the beaver and its association with the young woman's genitalia.

The Board reviewed the advertisement and noted that the tag line in the advertisement was "for the ultimate care down there". The Board considered this tag line was relevant to the product and the location of the beaver holding a packet of sanitary napkins was proximate to the young woman's pelvis.

The Board noted the advertisement depicted a beaver as a central character, consistent with previous advertisements for this product. The Board confirmed its previous views that the use of the beaver character was playful and an acceptable euphemism for the female genitalia, relevant to the target audience.

The Board considered the depiction of the beaver holding a packet of sanitary napkins intended to be a light-hearted way of presenting the product and that most members of the community would not find it offensive. The Board determined the advertisement was not discriminatory or vilifying of women under Section 2.1 of the Code and was sensitive in its treatment of sexuality in accordance with Section 2.3.

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