



CASE REPORT

1. Complaint reference number	404/07
2. Advertiser	Estee Lauder Group (Unforgivable Woman)
3. Product	Toiletries
4. Type of advertisement	TV
5. Nature of complaint	Violence Other – section 2.2
6. Date of determination	Tuesday, 11 December 2007
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a couple in a stairwell as the man passionately caresses the woman. They are then seen in a bedroom situation with the woman covering her breasts with her arm and posing before him in scanty black underwear. The man is heard speaking as a voiceover "It's a control she has over me. I can't live without her. She's unforgivable." A female voiceover continues "Unforgivable Woman. The new scent for women from Sean Jean. At department stores now."

A shorter version of the advertisement is also being broadcast in conjunction with Myer store branding.

THE COMPLAINT

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

A black man pins a white woman (both in city dress) to a wall on a staircase (i.e. not a private residence) from behind, so that she and half her face is pressed hard against the wall as she weakly sort-of resists/responds? It looks uncomfortably like a sanctioning of sexual assault by men in a public place.

The advertisement breeches (sic) all levels of decency heavily promoting sex in an unhealthy and explicit way.

Shots of a lingerie clad / half naked woman being handled and groped by P Diddy (Sean Combs). It's creepy and indicated sexual violence. It is suggested that the woman is pushed up against a wall and trapped. I am so NOT a prude but watching it gave me a really bad feeling of sexual violation and I found it disturbing. Then I noticed the perfume title of "Unforgivable Woman" and this angered me as the woman seems vulnerable and under attack and yet she is "unforgivable". Rang clanging bells of "she was asking for it" / devil woman rubbish and I object greatly.

The ad was basically a pornographic montage- P.Diddy and many limbs; lots of semi-nudity alluding to full nudity; but what was most offensive was the clarity with which the viewer had to witness exactly WHAT sexual acts were being participated in. It was pornographic, in visual tone and content. Inappropriate sexual content. I have never lodged a complaint about an advertisement before, though I have seen some that I found unnecessarily sexual. However this advertisement really offended me. Can I not choose to watch a program in the 9:30 to 10:30pm time-slot, with my mum, without being exposed to grotesquely explicit sexual content during the ad breaks?

THE ADVERTISER'S RESPONSE

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

Sean John Combs is an American entertainment celebrity.. In 2005 he launched a fragrance for men in the U.S. under the brand UNFORGIVABLE on which his name, Sean John, also appeared. That product was launched in Australia in December 2006. The end line used in advertising the product was "Life without passion is unforgivable".

In November this year, a fragrance for women in the same range was created and launched under the UNFORGIVABLE WOMAN brand in Australia. Again, the Sean John name appeared on the bottle.

In the (30 second) television advertising for the UNFORGIVABLE WOMAN product in Australia, Mr. Combs appears as a well dressed, handsome, stylish male lead, opposite a beautiful, young woman. The television commercial shows this couple overcome by urgent passion. In the television commercial, the characters are very well-dressed and have the same passionate looks on their faces. Their actions and demeanour clearly reflect a consensual relationship and do not suggest sexual violence or a lack of consent in any way.

The complaints allege that the scene depicted in the advertisement involves the "sanctioning of sexual assault by men in a public place". (This complaint) relates to section 2.2 of the AANA Advertiser Code of Ethics which states that "Advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised." For the reasons outlined it is submitted that this is not an advertisement that presents or portrays violence at all so that there is no question of section 2.2 being breached. The Unforgivable Woman advertisement does not include any nudity, partial nudity or sex scenes and, if it is held to not present or portray violence.

The history of the creation of the advertisement makes it clear that the advertisement was not intended to present or portray violence. Nevertheless, the question for the purpose of the Code is whether or not it does so. In answering this question, it is very important to focus upon the advertisement itself and its actual content rather than reading things into that content.

There are no expressions of violence in the scene depicted in the advertisement. There are no weapons, no torn clothes, no blood or other signs of violent struggle, no violent expressions on the face of the alleged protagonist, no tearing of clothes, no striking or clenched fists and no expressions of anger or force or of hurt or pain or fear. Indeed, both the male and the female are portrayed as very well-dressed, as engaged in an embrace and as well-matched in terms of youth, beauty and the like. We fail to see why (the complainants) nevertheless see the advertisement in this light. We submit that the reasoning set out in the complaints is not at all persuasive when looked at closely. While the woman's head is angled to one side, why does this suggest that it (is not) angled to receive a consensual embrace and kiss? And what is there in the actual elements of the expression on the male's face or in his pose that appears to be threatening and restraining her? The scene is much more consistent with a consensual, urgent and passionate embrace which is exactly what is clearly intended and shown in the TVC.

The name of the male fragrance is UNFORGIVABLE and the female version is UNFORGIVABLE WOMAN. The use of the word "Woman" in the name of the fragrance simply refers to the fact that this fragrance is the female version of the original male fragrance that was launched under the name "Unforgivable". This is a customary practice in the fragrance industry. In addition, the brand name, Unforgivable, is consistent with the urgent, edgy, excitement and passion that is conjured by the advertising and intended to be evocative of the fragrances for both men and women. The words themselves do not imply an element of punishment, rough treatment or violence.

"A black man pins a white woman...to a wall on a staircase (i.e. not a private residence) from behind, so that she and her half face is pressed hard against the wall as she weakly sort-of resists/responds?" It is interesting that this complaint wrongly sees the advertisement in terms of a black man assaulting a white woman. In fact, the female talent involved is a woman of colour. It seems that the complainant believes that the fact that the male is black and the woman has lighter skin is in itself evidence that their coming together is not consensual. Likewise, the fact that this happens in a public area and not in private is seen as making it less likely to be consensual. Similarly, the fact that the man approaches from behind is seen as suggesting the same conclusion. In fact, the left arm of the man is cushioning the woman's head and it is completely consistent with a couple using the wall in a public stairwell to support them while they engage in a heated embrace. This complaint seems to infer messages from the scene which are not there.

There is nothing about the man's facial expression or pose which could be said to be "very aggressive" or as consistent with him treating the woman as a person to be punished.

In summary, we submit that each of the complainants is reading into the advertisement messages that are just not there. It is not an advertisement that "presents or portrays violence". It is intended to – and does -- depict a passionate, consensual embrace and this is the reasonable interpretation of the visual.

For the reasons set out above, we respectively submit that the complaints should be dismissed as disclosing no breach of the Code.

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' concern that the advertisement depicts sexual violence and is verging on pornographic.

The Board considered the advertisement and noted the various images of sexually suggestive activity between a man and woman. The Board noted that the advertisement is classified MA (mature adult) and that it cannot be shown until after 9pm. The Board considered that the advertisement is sexually suggestive but that the sequence of disjointed images do not present graphically sexual activity.

The Board considered that the advertisement depicted passion and is suggestive of sexual passion. The Board considered that the advertisement, although depicting sexual passion, was not inappropriate given the MA classification, and did not breach section 2.3 of the Code.

The Board considered that the advertisement was not suggestive of sexual violence and did not breach section 2.2 of the Code.

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