



CASE REPORT

1. Complaint reference number	415/08
2. Advertiser	Gourmet Garden
3. Product	Food and Beverages
4. Type of advertisement	TV
5. Nature of complaint	Language – use of language – section 2.5
6. Date of determination	Thursday, 30 October 2008
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for the Gourmet Garden spice tubes shows a couple in their kitchen preparing a meal. The woman tastes the food after putting some spice in the food and excitedly says they taste great. A word is beeped out of her sentence. The man appears surprised at her comment and then at the woman's order to call her 'chef'. While the couple continue to prepare the meal a voice over says "Gourmet Garden. It's quick, it's easy, it's just brilliant". The woman is heard again at the end saying, "That is brilliant. That is [beep] amazing".

THE COMPLAINT

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

Offensive in the use of or reference to the 'f...' word.

Although the word 'f...' is not heard, the implication is there and there does not appear to be any reason for such language to be used in this advertisement, as it certainly does not appear to be relevant to the product being advertised.

It's not funny... it's just setting a really bad example for our children.

This advertisement is a take-off of the cooking shows by Gordon Ramsay, and plays on the same attitude and coarse language. Although the f-word is "beeped" out in this ad, your brain pretty much replaces the word anyway, as did my 8 year old son's brain. The f-word program is bad enough alone, so I simply don't watch it. However, with advertisements you have no choice on what you watch. I think it lowers our societies values to let this kind of coarse language creep into ads and, secondly, the basic attitude and behaviour of the wife to the husband is a poor example to set to anyone.

THE ADVERTISER'S RESPONSE

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

We note that the complaints relate generally to provision 2.5 of the Code which provides that: "Advertising and Marketing Communications shall only contain language that is appropriate in the circumstances and strong or obscene language shall be avoided."

In order to provide some insight into the overall context of the advertisement, we note that the concept involves a theme whereby an ordinary person in their everyday domestic kitchen at home begins cooking with Gourmet Garden herbs. As a result of the aroma and experience associated with the product, they evoke the thoughts and feelings of a professional chef and are unconsciously transformed and take on a celebrity chef style persona. This is reinforced by the very ordinary

kitchen environment, and the fact that in the early stages of the commercial they are an ordinary character with no resemblance to the celebrity chef persona.

The woman in question at the beginning of this advertisement is clearly shown to be loving and sweet natured, and she is later shown, after beginning to cook with the product, to get carried away in a moment.

More generally, the commercial is intended to be light hearted and tongue in cheek, although with some measure of playful irreverence.

In relation to the language used, the idea of the bleeping was directly relevant to the message of her evoking the persona of a particular celebrity chef character. In this case the woman takes on some of the characteristics and mannerisms as are associated with Gordon Ramsay. The bleeps are intended as a humorous reference to this character, and are related to the theme of the commercial. However she is clearly not Gordon Ramsay and it is unclear to the viewer what words she is actually using. The words in question are completely bleeped out, and it is left open as to what words are actually spoken.

You will note that the only bleeped references here are “xxx fresh” and “xxx tasty”. The bleeps represent passion and a positive connotation in relation to the food, and are not directed towards a person or used in an insulting or belligerent manner. In keeping with this, the response of the husband is somewhat surprised and bemused at the sudden and unusual transformation in his wife’s persona, however he does not appear to be offended, threatened or intimidated by her behaviour.

In developing the advertisement, we were cognisant of the recent cases in this area including those relating to the advertisement for Copperpot Dips and the radio commercial for Nando’s. We sought legal advice accordingly and took careful measures to ensure that the words were not apparent, visible or audible to the audience. We ensured that all that was apparent was a subtle suggestion, however we took steps to ensure that this could just as easily have been any other words.

We note that in the Copperpot Dips case, the Advertising Standards Board dismissed a complaint in relation to language, in circumstances where the words were bleeped out, it was not possible to read what word the bleep actually represents, and the advertisement was “tongue in cheek and a bit of fun”. We would argue that the advertisement in question is generally consistent with the nature of this commercial.

We note that in the Nando’s case, the Advertising Standards Board upheld a complaint on language grounds. We note that this related to a 30 second radio commercial which contained no less than eight uses of the “f” word. While this also involved a reference to Gordon Ramsay the reference was much more blatant and direct. The character used multiple expletives, which were only partially bleeped out. It was clear with the language used, that the “f” word was the only word that could possibly have been used.

The result was that it was unmistakable that he was using obscene language and the overall tone was intended to be shocking. We can see how it could be found here that the language was unnecessary to the point of being gratuitous, over the top, and left nothing to the imagination.

We would argue that this is clearly distinguishable from the Gourmet Garden commercial.

The complainant calls for a consistent approach to language complaints. We respectfully submit that there is scope for a consistent approach to language, which is one that takes into account the overall impression and tone of the individual advertisement in question and various relevant factors.

The ultimate issues for determination are whether the language used was obscene, and whether the language used was inappropriate in the circumstances.

In the Gourmet Garden advertisement we do not consider that the subtle references to language are to a level that would be considered obscene. The words are clearly bleeped out and ambiguous, and this is all in the spirit of a playful, tongue in cheek reference to losing yourself in a moment.

We also consider that when you take into account the theme and message that this particular advertisement is intended to convey, the bleeping is directly relevant to this message, in that it

would be difficult for the concept to be appreciated without it, and hence is not inappropriate in all the circumstances. There are clear reasons for the subtle reference to language.

Further, we note that in stark contrast to the Nando's case, the Gourmet Garden commercial involved the use of only two complete bleeps, in a situation where it is unclear what words she is actually saying.

We would submit that in the realm of advertising the idea of bleeping out words is not always tantamount to obscenity. In some cases it can be done in a comical context and suggest a number of things including restraint, a play on words or playfulness.

We also point out that great care has been taken in relation to placement of this advertisement in specified programs and time slots, so as to ensure that the advertisement was shown only at times and in programs that targeted an appropriate audience.

In this regard we advise that the advertisement received a PG – Parental Guidance rating from CAD as follows:

Definition: Parental Guidance Recommended

May be broadcast during the following hours, except during P and C programs or adjacent to P or C periods:

- *Weekdays 8.30am – 4.00pm*
- *Weekdays 7.00pm – 6.00am*
- *Weekends 10.00am – 6.00am*

Exercise care when placing in cartoon and other child – appeal programs.

Product Description: Commercials which comply with the PG classification criteria in Section 2, Appendix 4 of the Code of Practice and which contain careful presentations of adult themes or concepts which are mild in impact and remain suitable for children to watch with supervision.

We accordingly ensured that the advertisement was placed in programs such as Kitchen Nightmares, Ready Steady Cook, Better Homes and Gardens, and Huey's Cooking Adventures. We also advise that in response to the complaints we have taken further steps to ensure that the advertisement is aired only in evening time slots, to ensure that viewing is further targeted.

We therefore submit that the advertisement is not in breach of the Code of Ethics in relation to provision 2.5 or other provisions 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 considered the application of Section 2.5 of the Code, relating to the use of language.

The Board noted that in this advertisement a woman takes on the persona of a Gordon Ramsay style chef, including bleeps suggesting the use of swear words. The Board noted that it had previously considered similar depictions in other advertisements.

The Board considered the depiction and language used in this advertisement was more akin to the case involving Copperpot Dips (Case Reference Number 38/08) that it had previously dismissed. In particular, the Board noted that there was no audible mention of the word "f**k" or any other inappropriate language and the tone of the advertisement was light-hearted, with the husband's reaction to his wife's change in persona being one of surprise and then amusement, rather than fear or shock.

The Board considered that this advertisement could be distinguished from other cases upheld by the Board, such as the Nandos (Case Reference Number 159/08) or ILVE (Case Reference Number 339/08) cases because it found the words bleeped out were not overly repetitive or presented in an aggressive context, the bleeped out words were not directed towards children and no part of the bleeped out word was audible.

The Board therefore determined the language used was appropriate in the circumstances of the advertisement and that there was no breach of Section 2.5.

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