



CASE REPORT

1. Complaint reference number	494/08
2. Advertiser	Stuart Alexander & Co Pty Ltd
3. Product	Food & Beverages
4. Type of advertisement	TV
5. Nature of complaint	Discrimination or vilification Race – section 2.1 Food and Beverage Code – other
6. Date of determination	Wednesday, 10 December 2008
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement from Stuart Alexander for Mentos blast sugar free gum opens on a scene depicting an American Indian village. Village elders are seen watching a younger male dancing. He is thrown a packet of the gum. After he puts a piece in his mouth water drenches him and an elder is seen laughing. The advertisement ends on a still shot of three Mentos tubes, a totem pole and the words "A blast of liquid refreshment".

THE COMPLAINT

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

Native Americans is pre-colonial settings and dress depicted in a manner that is a negative stereotype. Mocking sacred ceremony. religious as well as racial denigration.

I am tired of Australian television allowing the importation of United States racist imagery of Native Americans. There is another commercial at the moment for Ford which does the same thing,; an ad for Doritos chips last year which did the same. They all mock Native American customs in a manner that would cause consternation should it depict Indigenous Australians, the Irish or Maoris etc. Just because there are few Native Americans in Australia to defend themselves doesn't mean it is okay to exploit them in racist stereotyping to market confectionery and cars.

THE ADVERTISER'S RESPONSE

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

It is the position of Stuart Alexander & Co Pty Ltd and Perfetti Van Melle (the overseas brand owner) that:

- 1. this commercial is not intended to offend and we do not believe that it consists of any racial or religious denigration or stereotyping.*
- 2. the commercial does not portray people in a way which discriminates against, vilifies or demoralises any race or the members of a community on the basis of either religion or ethnicity, including Native Americans.*
- 3. the commercial depicts a young man attempting to do a "rain-dance" who is obviously not Native American and his lack of skill in the rain dance implies that the dance requires skill, belief and tradition in order to be effective. In this way it is a recognition of the skill and uniqueness of a Native American ceremony rather than a derogatory treatment of it.*
- 4. the commercial is a light hearted, tongue-in-cheek and humorous campaign. It is not intended to be taken seriously by the viewer; it is meant to be understood as a satirical depiction of a young*

man making a fool of himself, it is not intended as a reflection on any culture, race or religion and we do not expect that the target audience would perceive it in this way.

5. the commercial was designed to appeal to a young audience who would appreciate the "hosing down" or dousing of someone who looks silly when attempting to perform a dance that requires skill.

6. the Native American figures in the commercial are portrayed as the more knowledgeable and sensible group, in direct contrast to the young (white) man who is doused with water, the Native Americans do not engage in any deeming or pointless behaviour.

7. as required by 2.6 of the AANA Food and Beverages Advertising and Marketing Code the claims made about the products material characteristics are accurate;

8. this commercial is not specifically directed towards children.

9. the commercial has been reviewed and approved by Commercials Advice Pty Ltd (CAD) on two occasions as follows:

i. in 9th October CAD Approval Number: GPGURFSF Rated: G

ii. in 8th September 2008 CAD Approval Number: GP08CFSF Rated: G

10. the commercial has been shown in time slots which Stuart Alexander and the relevant television stations consider appropriate given the content of the commercial, its rating and the audience likely to be watching at those times.

For these reasons it is our view that the commercial does not contain matter prohibited by, or in breach of, the AANA Advertiser Code of Ethics, the AANA Food and Beverages Advertising and Marketing Code or the AANA Code for Advertising and Marketing Communications to Children. In our view, the manner in which the Native Americans are portrayed in the commercial is justified in the context of the product advertised and does not demean this race or religion or any other section of any community.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the AANA Food and Beverages Advertising and Marketing Communications Code (the "F&B Code").

The Board considered the application of the F&B Code and determined that the advertisement did not breach any of its provisions.

The Board then considered the application of Section 2.1 of the Code, relating to discrimination and vilification.

The Board considered the depiction of Native Americans in the advertisement was in bad taste and noted that an advertisers' easy recourse to cultural stereotypes may be offensive to some members of the community.

The Board noted that the main character was clearly a Caucasian person dressed in stereotypical Native American dress. The Board considered the reference to a "rain dance" was a familiar cultural reference and was intended to direct viewers' attention to the "liquid blast" aspect of the product.

The Board considered that, while some people may be offended by this depiction, the advertisement was not discriminatory against, or vilifying of, Native Americans.

The Board also noted the complainant's concern that the advertisement denigrated a religious ceremony. The Board considered that the advertisement's depiction of a rain dance was not intended to be derogatory of the ritual or beliefs and that most people would not consider that the advertisement was vilifying of such beliefs.

The Board therefore found no breach of Section 2.1 of the Code on either racial or religious grounds.

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