



CASE REPORT

- | | |
|-------------------------------|---|
| 1. Complaint reference number | 76/09 |
| 2. Advertiser | Nestle Ice Cream |
| 3. Product | Food and Beverages |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 11 March 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement from Nestle for its Drumstick icecream product shows a small town parade. Included in the parade are 'beach-bums' wearing sunhats and swimming costumes, barbecues, a robot with flyswats as arms, speedos (or 'budgie smugglers'), a fly-by of sprinklers and a giant sandcastle. The last item in the parade is a float with a Drumstick icecream. A child in the crowd is depicted pointing to one of the floats. A young man is then shown biting the end off a Drumstick and all music and the parade stops momentarily until the dancers on the Drumstick float also bite the end off their icecream cone. The advertisement ends with a voiceover saying: "Drumsticks, a summer classic since 1963".

THE COMPLAINT

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

The ice-cream appears as a phallic symbol and the child is about 10 years of age! A man then bites off the tip of an ice-cream in a very suggestive way.

THE ADVERTISER'S RESPONSE

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

On behalf of Nestle I would like the Board to consider the information below in its consideration of the Complaint. I wish to state at the outset that we do not consider the Advertisement to be in breach of the Code.

The complainant is correct in so far as the Advertisement portrays a young girl pointing to a giant DRUMSTICK. A large ice cream cone which appears in a parade of floats comprising of classic iconic Australian items. The purpose of including DRUMSTICK in the parade was to communicate to consumers that DRUMSTICK is an Australian icon: "A summer classic since 1963". We disagree with the suggestion made by the complainant that the DRUMSTICK float appears as a phallic symbol. Rather it is an accurate depiction of the DRUMSTICK product, a well recognised and known ice cream and Australia's best selling ice cream cone. No sexual innuendo was intended by Nestle in featuring the DRUMSTICK float in the Advertisement.

We also disagree with the complainant that the man biting off the tip of a DRUMSTICK product is doing so in a suggestive way. We believe it is clear he is simply enjoying his favourite part of the DRUMSTICK product, being the chocolate contained in the tip of the cone. Consumers both know and enjoy the chocolate contained in the tip of the cone of a DRUMSTICK product and advertisements for DRUMSTICK have for years featured a person biting off this chocolate cone tip. Nestle has not before received a complaint that such imagery is suggestive in any way.

The Advertisement was not made for, or broadcast specifically to children. The intention of the Advertisement was that it would appeal to people of all ages, and the media schedule for the Advertisement is reflective that Nestle sought to reach a broad target group with the Advertisement. We would be happy to provide the Board with a copy of the media schedule for the Advertisement at its request.

The Complaint is the only complaint we have received in relation to the Advertisement. You asked that our response address any issues arising out of the AANA's Food and Beverages Advertising and Marketing Communications Code and the AANA's Code for Advertising to Children. We have considered each of these codes and are confident the Advertisement raises no issues under these codes.

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 complainant's concern that the advertisement inappropriately depicts a child in conjunction with a phallic reference.

The Board considered the advertisement and noted the image of the man biting the end off the ice-cream cone. The Board determined that reasonable members of the community would not see this image as sexually suggestive. The Board also noted the image of puppet 'bottoms' wearing g-strings and the reference to 'budgie smugglers' and considered that most members of the community would see these depictions as humorous representations of stereotypical features of Australian life. The Board considered that most people would not consider these depiction offensive. The Board determined that the advertisement was not sexually suggestive and that there was no breach of section 2.3 of the Code.

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