

Case Report

1. Case Number :	0047-23
2. Advertiser :	Uber Australia Pty Ltd
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	Internet - Social - YouTube
5. Date of Determination	22-Mar-2023
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

DESCRIPTION OF ADVERTISEMENT

This YouTube video refers to various bowls (of food) you can and cannot obtain through UberEats. The imagery cycles through bowls referred to in the voiceover, before showing an Asian boy with a bowl haircut.

"On Uber Eats, you can get almost almost any bowl. Like acai bowls, salad bowls, poke bowls...But no bowl cuts. Sorry, buddy."



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Showing an Asian kid with a stereotyped Asian haircut appears as racist as it specifies a people group having a certain appearance, also with an implication of this being funny or ridiculous, hence being the punch line of the ad. Having a specific focus on Asian people group presents as discriminatory and racist by making fun of a specific people group based on a stereotypical appearance, and also would potentially promote further behaviour by others to ridicule this people group.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Uber Eats provides the following response to the complaint, having regard to its responsibilities under the AANA Code of Ethics (Code).

2.1 Discrimination or vilification

(a) Section 2.1 of the Code states the following:

Advertising 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, gender, age, sexual orientation, religion, disability, mental illness or political belief.

(b) The practice note to section 2.1 of the Code describes 'discrimination' as unfair or less favourable treatment and 'vilification' as humiliation, intimidation or incitement of hatred, contempt or ridicule.

(c) Uber Eats is genuinely committed to diversity and inclusion. This commitment is demonstrated by the demographic statistics of our workforce in the US - you can read more about diversity and inclusion within our workplace at www.uber.com/us/en/community/diversity-and-inclusion/workplace-equality/.

(d) We have policies and practices in place both in our workplace and in the community that demonstrate this commitment, including our:

(i) Non-Discrimination Policy, available at www.uber.com/legal/en/document/?name=non-discrimination-policy&country=australia&lang=en;

(ii) Community Guidelines (see section titled 'Discrimination'), available at www.uber.com/legal/en/document/?name=general-community-guidelines&country=australia&lang=en;

(iii) anti-racism commitment, which you can read about at www.uber.com/newsroom/being-an-anti-racist-

*company/?utm_campaign=StoreDirectory&utm_medium=referral&utm_source=zip;
and*

(iv) 12 Employee Resource Groups, which provide awareness regarding identity and intersectionality, in addition to leadership development opportunities for members.

(e) Uber Eats also actively invests in, and publicly supports and promotes diversity initiatives and events. Uber Eats stands against discrimination, racism and vilification in all its forms, and this extends to our advertising practices and content.

(f) The advertisement does not show any material that could reasonably be regarded as treating the child (or any broader group the child may belong to) unfairly, less favourably or in a manner that would be humiliating, intimidating or inciting of hatred, contempt or ridicule because of his race, ethnicity or any other trait.

(g) The point of the advertisement is to highlight the wide variety of foods served in bowls that can be ordered on the Uber Eats app and employs humour by disclaiming the unavailability of bowl haircuts on the app. The humour is accentuated by the fact that a bowl haircut is an absurd and impossible thing to order on an online platform. The child's race or ethnicity is wholly irrelevant to the humour and storyline of the advertisement. This factor was relevant to the Community Panel's determination to dismiss the complaint in case reference number 0010-23, where it was noted that:

'The majority of the Panel considered that the man's race and skin tone were not referred to in the advertisement and the man's actions were not related to his race.'

(h) The bowl cut is a well-known hairstyle that has been adopted by children and adults of different backgrounds and in popular culture. In fact, Uber Eats itself produced a TV advertisement in 2019 featuring Magda Szubanski and Kim Kardashian centred around the bowl cut – because bowl cuts have humorous appeal. The average person would not reasonably consider the bowl cut to have any affiliation with, or negative or discriminatory connotations in respect of, a particular race or ethnicity. The advertisement leverages the community's amusement by the bowl cut, and it is not used in any insulting, humiliating or derogatory way.

(i) In fact, the overall sentiment in the advertisement towards the bowl cut is positive. The child is clearly disappointed to learn he cannot get a bowl haircut through the app (emphasised by the voiceover's consoling comment 'sorry, buddy'), which suggests the child likes his bowl haircut, and it is not something he is ashamed of, or being humiliated for.

(j) The advertisement does not depict any exaggerated or mocking accents or mannerisms. These factors were relevant to the Community Panel's determination to dismiss the complaint in case reference number 0005-22, where it was noted that:

'...there was not a focus on any particular culture, nor did any of the actors use exaggerated or mocking accents or mannerisms. The Panel considered that the humour or the advertisement was directed at the individuals depicted, rather than at any particular cultural group.'

(k) For the reasons described above, the advertisement does not breach section 2.1 of the Code.

2.2 Sexual appeal

The advertisement does not breach section 2.2 of the Code because it does not employ sexual appeal.

2.3 Violence

The advertisement does not breach section 2.3 of the Code because it does not present or portray violence.

2.4 Sex, sexuality and nudity

The advertisement does not breach section 2.4 of the Code because it does not incorporate any depictions or references to sex, sexuality or nudity.

2.5 Inappropriate language

The advertisement does not breach section 2.5 of the Code because it does not use any inappropriate language, such as strong or obscene language.

2.6 Health and safety

The advertisement does not breach section 2.6 of the Code because it does not depict any material contrary to Prevailing Community Standards on health and safety.

2.7 Clearly distinguishable advertising

The advertisement does not breach section 2.7 of the Code because it is clearly distinguishable as advertising.

2.8 Food and Beverages Advertising Code

If applicable, the advertisement does not breach any sections of the Food and Beverages Advertising Code.

2.9 Children's Advertising Code

The Children's Advertising Code is not applicable because the advertisement promotes a product directed at adults.

3. Conclusion

The advertisement does not breach any sections of the Code and Uber Eats respectfully requests the complaint be dismissed.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement is racist.

The Panel viewed the advertisement and noted the advertiser's response.

Section 2.1: Advertising shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness or political belief.

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel noted the complainant's concern that the advertisement was racist as it depicted an Asian boy with a stereotypical haircut.

The Panel acknowledged that although bowl cuts are given to many children of all races, the haircut may be one associated with caricatures of Asian people and as such for some members of the community there may be a negative stereotype associated with this haircut. The Panel noted that when casting advertisers should be sensitive to racial stereotypes to avoid negative stereotyping in advertisements.

However, in this advertisement the Panel considered that neither the haircut nor the boy is portrayed in a negative light, rather it shows that the boy is disappointed that he can't get the haircut through the delivery service, and the voice-over apologises to him for not being able to provide it.

Overall, the Panel considered that the advertisement did not show the child to receive unfair or less favourable treatment because of his race, and did not humiliate, intimidate or incite hatred, contempt or ridicule of him or any group because of his race.

Section 2.1 conclusion

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race and determined that the advertisement did not breach Section 2.1 of the Code.

Conclusion

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