

## Case Report

1. Case Number :	0229-23
2. Advertiser :	Hungry Jacks
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	25-Oct-2023
6. Decision:	Upheld – Modified or discontinued

### ISSUES RAISED

AANA Code of Ethics\2.0 Other  
AANA Code of Ethics\2.1 Discrimination or Vilification  
AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts a woman driving a car looking over at her passenger who is eating a burger. A road worker with a stop sign yells to get her attention and she abruptly stops. She makes a heart sign with her hands to say she is sorry, when he looks unimpressed she then holds her hands like she is holding a burger. He turns the stop sign to allow them to go, and they pass him a burger through the window of the car.



## **THE COMPLAINT**

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

*For roadworkers reckless driving resulting in accidents which cause serious injury or death is a serious concern. I don't know one road worker who hasn't been hit by a car working on the road ( I work for a company in the industry). To make a serious social problem frivolous is disrespectful to the individuals and families who's lives have been destroyed by people not taking care at roadworks. We don't make 'near misses' better with a whopper. Reckless driving endangering lives should not be laughed off. Do better.*

*The woman was recklessly driving by not paying attention to the road, nearly running over a clearly visible male worker. The ad depicts this reckless behaviour is okay and further, it can be laughed off by having a Whopper burger.*

*We strongly believe that advertising should be responsible and should not promote any behaviour that could be harmful or unsafe. This advertisement may not explicitly encourage unsafe driving, but it does seem to make light of potentially dangerous situations, which is highly distressing and inappropriate, particularly in the context of our members' daily work and experiences.*

*Workers in real life are losing their lives due to drivers lack of care and attention. It is offensive for a fast food outlet to treat this issue so frivolously. How do you think people who have lost loved ones feel watching these ads?*

*I believe this ad is encouraging bribery when someone has done something wrong. This is corruption and must not be allowed to become a way of life in Australia. Countries around the world have terrible problems with corruption and bribery and I believe this ad is encouraging the attitude that bribery and corruption are ok.*

*Racism - white person almost crashes car and black person takes the white girls food*

## **THE ADVERTISER'S RESPONSE**

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

*Thank you for bringing to our attention the customer complains regarding our recent TV advert.*

*The advert, in cases 0229-23, 0230-23 and 0236-23, is alleged to breach of the AANA Code of Ethics 2.6 Health and Safety/ Unsafe Behaviour and 2.6 Health and Safety/ Motor Vehicle related.*

*In response to the complaint/s,, Hungry Jack's does not believe that the AANA Code of Ethics has been breached in relation to point 2.6 as;*

- the length of time it takes for the Hungry Jack's pylon light reflection to pass over the vehicle clearly shows that the vehicle is travelling slow.*
- no road rules are broken both intentionally nor unintentionally.*
- both occupants are wearing seatbelts.*
- the driver has two hands on the steering wheel at all times.*
- the vehicle is always under control of the driver.*
- creative licence has been used to exaggerate and create a situation that requires interaction between the driver and the traffic*

*In response to an additional complaint contained in 0230-23, and the AANA Code of Ethics 2.1 Description or Vilification/Race, Hungry Jacks contends that,*

- the casting of the actors was to show/promote inclusivity in the advertising industry.*
- it is not implied that people of colour work medial jobs. Many nationalities work as traffic controllers.*
- it is not implied that people of colour accept bribes and no bribery was committed in the advert (the Whopper was given as an apology).*

*We sincerely apologise for any offense this advertisement may have caused however we do not believe it is in breach of 2.6 Health and Safety\Motor vehicle related code. The advertisement depicts a young woman momentarily distracted and late breaking at a stop sign held by a road traffic controller. The car is travelling very slowly (approximately 20km per hour), the actress is driving the car responsibly, wearing a seatbelt with both hands on the wheel. This ad reminds drivers of the importance of concentrating, conveying the message that even a small distraction can be dangerous.*

*The second scene in this advertisement depicts the driver apologising to the traffic controller and giving him a Whopper. The road traffic controller accepts her apology and chooses to forgive her. Many road traffic controllers report receiving disrespectful and abusive behaviour from drivers. We depicted a traffic controller as the 'hero' in ad to humanise these essential workers with the intent of reminding people to be kinder and more respectful toward them.*

*This advertisement reminds drivers to concentrate more, but more importantly it aims to encourage people to undertake acts of kindness and to forgive. The Whopper brand campaign aims to hero individuals triumphing through facing adversity with forgiveness and acts of kindness. Many studies have found that the cancel culture is damaging to young people with links to increased stress, anxiety and depression. Constantly seeing individuals who are deemed to have acted or spoken in an unacceptable manner ostracized, boycotted, shunned and shamed in social media creates an environment of fear. Many young people do not feel safe to express themselves as a mistake in social channels can potentially attract many thousands of adverse posts, comments and criticism. This is the first ad in the Whopper brand campaign that will depict moments in which individuals make mistakes for which they sincerely apologise, then give a Whopper and we show the 'hero' forgiving them.*

*This advertisement is running from November 26 and the campaign ends on October 31.*

## **THE DECISION**

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 complainants' concerns that the advertisement:

- depicts and encourages bribery and corruption
- is racist
- depicts and encourages unsafe driving practices.

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

### **Bribery and corruption**

The Panel noted the complainants' concern that the advertisement depicted and encouraged bribery and corruption. The Panel noted the advertiser's response that the advertisement does not depict bribery, and the burger was given as an apology. The Panel considered that this concern did not raise an issue under any section of the AANA Code of Ethics.

**Section 2.1: Advertisements 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 acknowledged that community standards in this area are evolving, and that there is an increased sensitivity in the community to issues such as casual racism.

The Panel noted the advertiser's response that the casting in the advertisement was to show/promote inclusivity in the advertising industry.

The Panel considered that the road-worker in the advertisement was depicted as being in control of the situation, and was not depicted in a demeaning or dehumanising manner. The Panel considered that the road worker was shown to accept the burger as an apology for the woman's inattention.

The Panel considered that the man's race was not central to his role in the advertisement and considered that the advertisement did not reflect any cultural stereotypes associated with race. Overall, the Panel considered that the advertisement did not contain material which would humiliate or incite ridicule of any person or group of people on account of 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.

### **Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.**

The Panel noted the complainants' concerns that the advertisement depicts driver inattention, which could result in injury or death of road workers.

The Panel noted the advertiser's response that the car is travelling slowly (approximately 20km per hour) and the actress is driving the car responsibly, wearing a seatbelt with both hands on the wheel.

The Panel noted that the advertisement did depict a driver becoming distracted, and as a result she has to brake hard to stop in time. The Panel considered that she only takes her eyes off the road for a short time, however this is contrary to community safety messaging that drivers should remain attentive and in control of their vehicles at all time. The Panel noted that driver distraction is a dangerous problem which can cause serious accidents.

The Panel noted the advertiser's further response that this ad reminds drivers of the importance of concentrating, conveying the message that even a small distraction can be dangerous. The Panel considered that the advertisement is depicting a serious issue in a light-hearted manner, and that this combined with the fact that there were no negative consequences, conveyed an overall impression that driver distraction is not a serious danger.

The Panel considered that this impression was contrary to community safety messaging, and as such, is contrary to community expectations of how this issue should be depicted in advertising.

Overall, the Panel considered that the depiction of driver inattention was contrary to prevailing community standards on road safety.

### **Section 2.6 conclusion**

The Panel considered that the advertisement did contain material contrary to Prevailing Community Standards on health and safety and determined that it did breach Section 2.6 of the Code.

### **Decision**

Finding that the advertisement breached Section 2.6 of the Code the Panel upheld the complaints.

### **THE ADVERTISER'S RESPONSE TO DECISION**

We received and noted the findings, this campaign concluded on October 31 so no further action is required.