

## Case Report

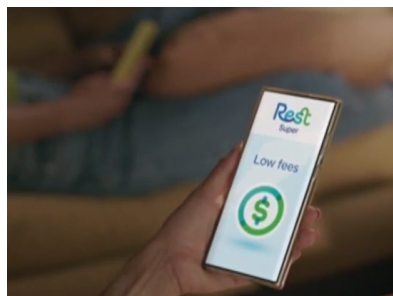
1. Case Number :	0137-24
2. Advertiser :	Rest
3. Product :	Finance/Investment
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	5-Jun-2024
6. Decision:	Dismissed

### ISSUES RAISED

AANA Code of Ethics\2.0 Other  
AANA Code of Ethics\2.1 Discrimination or Vilification  
AANA Code of Ethics\2.3 Violence  
AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This television advertisement features a woman wondering aloud if making a cake for her daughter would be as easy as using the Rest app. The woman produces a cake which is poorly decorated and her family react with surprise, with one man letting out a high-pitched scream.



## THE COMPLAINT

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

*There is someone screaming at the end of the ad which is very invasive to people wearing hearing aids*

*Loud screaming. Suffer from complex PTSD & this ad is loud & triggering*

*The ad has a ridiculous scream at the end of it which induces fright in my children if I don't get to the TV fast enough. The scream is also very loud, louder than the rest of the ad.*

*The TV ad has a blood-curdling screaming coming out of nowhere. Something to do with a cake being presented to someone. Every time it comes on the TV I hear this loud screaming and have to rush to check with other people in my household to ensure it is not a real life emergency, only to find it's a false alarm. This ad is completely offensive and irresponsible, to have this ridiculous screaming advert on prime time television creating a sense of fear that someone in real life is in danger!*

*The ad has someone screaming very loudly for a long time. This is terrible for my anxiety and makes my heart race.*

*The ad has a man screaming in an unnatural high pitch which is louder than rest of ad. I am neurodivergent and it is very abrasive to me. It also upsets my cat.*

*The advertisement features a man screaming in a long, loud, high pitched feminine voice. The Ad depicts men in a derogatory and demeaning manner as feeble minded simpletons.*

*This particular advert depicts a birthday cake of a female. It is ugly and disfigured and insulting to females.*

*The ad shows a woman having baked a cake resembling a woman with a severely disfigured, badly scarred face, head and upper torso. The woman who baked the cake presents it to the rest of the family who are standing outside. They appear extremely shocked and the child covers her face with her hands. This ad is in appalling taste. We do not need to judge anyone by their looks, nor do we need to judge a poor attempt at baking a cake that looks like a scarred woman. This ad would be extremely troubling to anyone who has suffered a disfigurement. It looks like a burns victim.*

## THE ADVERTISER'S RESPONSE

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

*The advertisement that Ad Standards have enquired about is designed to help Rest make a positive connection with its audience. It was developed in alignment with our commitment to ethical and responsible communication practices. This includes consideration of the principles reflected in AANA's code of conduct.*

*To support this and the campaigns objectives, we undertook member testing via a third-party service prior to launching the ad. These results did not indicate the scream featured at the end of the ad, or any other element of the ad, would cause concern with members of the public.*

*However, after launching the ad Rest received some direct feedback from members and the general public that flagged concerns with volume and pitch of the reaction scene mentioned above. In response, Rest proactively and rapidly re-recorded the audio of the ad, lowering the tone and pitch to address feedback. This re-record took place on the week commencing 20 April. An updated version of the advertisement, which featured the revised audio, replaced the original from 27 April. The booked media schedule for this advertisement finished on 10 May and we do not plan to run this creative again on free to air television.*

*Following Ad Standards communication on 5 May, Rest has closely reviewed the advertisement against the AANA Code of Ethics (the code) for any unintentional breaches against section 2 of the code. It is our view that there is no reference to or content that is part of the advertisement that:*

- 1. could be determined as advocating discrimination or vilification (2.1). The scene depicts a poorly constructed/baked birthday cake and has no intent to represent any person or group of people.*
- 2. could be determined exploitative or degrading in any way (2.2). The scene depicts a poorly constructed/baked birthday cake and has no intent to exploit or degrade any person or group of people.*
- 3. depicts any violence (2.3). The scene depicts a poorly constructed cake and has no intent to represent violence and/or any person having being injured*
- 4. features sex, sexuality, and nudity (2.4). There is nothing that could be construed as sex or sexuality featured in the advert, and all actors are fully clothed.*
- 5. features graphic, aggressive or swear language (2.5). There is no graphic, violent or swear language featured in the scripting, a copy of which is provided in this submission.*
- 6. Breaches health and safety orders (2.6). The cake is depicted as having been baked in a normal family home kitchen environment.*

*We can also confirm the advertisement is clearly distinguishable as advertising (2.7) and Rest is clearly identified as the advertiser through inclusion of:*

- 1. all relevant terms and conditions and disclaimers*
- 2. promotional messaging including 'low fees' as a member benefit (noting that as we have stopped airing this advertisement, we will no longer be promoting this benefit in the campaign in its current form)*
- 3. clear and prominent inclusion of the Rest logo and branding*
- 4. all relevant terms and conditions and disclaimers.*

*Please note there are also some cut-down and alternate versions of this advertisement that were launched alongside the above discussed long-form television commercial running on digital and social media through to 30 June. These feature the same creative but do not include the final reaction scene (or corresponding audio) which this enquiry is centered upon. These were launched on 27 April and we will continue running on digital and social media through to 30 June.*

## **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:

- is annoying
- is discriminatory to women
- is ridiculing of men
- is insensitive to people with disabilities or disfigurements
- causes alarm and distress to viewers, particularly those who are neurodivergent, have mental health or health issues, and young children
- could cause safety issues for those alarmed by the sound of the scream, or who are triggered by such content.

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

### **Annoying/unnecessary screaming**

The Panel noted the complainants' concerns that the prolonged and high-pitched scream was annoying, distressing, and unnecessary.

The Panel acknowledged that some members of the community would prefer such content not to feature in advertising. However, the Panel noted that advertising being annoying is not an issue which falls within the Code.

**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
- Gender – refer to the attributes, roles, behaviours, activities, opportunities or restrictions that society considers appropriate for girls or boys, women or men. Gender is distinct from ‘sex’, which refers to biological differences
- Disability – a current, past or potential physical, intellectual, psychiatric, or sensory illness, disease, disorder, malfunction, malformation, disfigurement or impairment, including mental illness

The Panel noted the Practice Note to Section 2.1 states:

*“Advertising which shows members of a certain group as ridiculous, unintelligible or unable to recognise a dangerous situation incites ridicule towards their behaviour.*

*A negative depiction of a group of people in society may be found to breach Section 2.1, even if humour is used. The depiction will be regarded as a breach if a negative impression is created by the imagery and language used in the advertisement of a person or group of people on the basis of a defined attribute listed above. Advertisements can humorously or satirically suggest stereotypical aspects of a group of people in society provided the overall impression of the advertisement does not convey a negative impression of people of that group on the basis of one or more of the attributes listed above.”*

Does the advertisement discriminate against or vilify men?

The Panel noted the complainants’ concern that the advertisement ridicules men by depicting the man screaming in a high-pitched tone.

The Panel noted that there is no suggestion that the man’s over-the-top reaction is because of his gender. The Panel considered that depicting a man screaming at a high pitch did not create a negative impression of the man or men in general. The Panel noted that there was another man in the advertisement who was not depicted as responding in an exaggerated way.

Overall, the Panel considered that the advertisement did not depict men in a manner which which was humiliating or ridiculing and did not depict them as receiving unfair or less favourable treatment because of their gender. The Panel considered that the advertisement did not discriminate against or vilify the man, or men in general, on account of gender.

### Does the advertisement discriminate against or vilify women?

The Panel noted the complainants' concern that the depiction of a woman's head and shoulders as a homemade cake that is leaning with dripping icing features is insulting to females.

The Panel considered that the advertisement depicted a woman's attempt to decorate a cake which resembled the character on her daughter's t-shirt, however it did not turn out as well as planned. The Panel considered that the poorly decorated cake was not intended to depict or represent a woman or women in general. The Panel considered that the advertisement did not discriminate against or vilify women on account of gender.

### Does the advertisement discriminate against or vilify people with a disability?

The Panel noted the complainants' concerns that the cake resembled someone with a disfigurement, and the man's negative reaction was discriminating against and vilifying of people with deformities.

The Panel considered that the advertisement depicted a woman's attempt to decorate a cake which resembled the character on her daughter's t-shirt, however it did not turn out as well as planned. The Panel considered that the poorly decorated cake was not intended to depict or represent a person with a disability. The Panel considered that the advertisement did not discriminate against or vilify people on account of disability.

### **Section 2.1 conclusion**

The Panel found that the advertisement did not breach Section 2.1 of the Code.

### **Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised.**

The Panel noted the complainants' concerns that the advertisement could cause alarm and distress to viewers, particularly those who are neurodivergent, have mental health, hearing or other health issues, and young children.

The Panel noted that the advertisement must be found to contain violence to be found to breach this section of the Code.

### **Does the advertisement contain violence?**

The Panel acknowledged that the prolonged high-pitched scream in the advertisement may cause alarm to people who have heard it and are not watching the advertisement.

The Panel noted that its role is to consider the overall content of the TV advertisement and not the audio in isolation. The Panel noted that in the context of the advertisement, the man is screaming in reaction to the poorly decorated cake. The Panel considered that no one in the advertisement is harmed, and there is no threat of violence towards the characters in the advertisement.

The Panel considered that the advertisement does not depict or suggest violence.

The Panel noted that the advertiser had changed the scream in the advertisement to be less high-pitched.

### **Section 2.3 Conclusion**

The Panel concluded that the advertisement did not present or portray violence and did not breach Section 2.3 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 could cause safety issues for those alarmed by the sound of the scream, or who are triggered by such content.

The Panel acknowledged that some members of the community may have adverse reactions to the sound of the scream. However, the Panel considered that the content of the advertisement itself was not unsafe, or likely to encourage or condone unsafe activities.

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety.

### **Section 2.6 conclusion**

The Panel considered that the advertisement did not breach Section 2.6 of the Code.

### **Conclusion**

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.