



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0088/15</b>
<b>2</b>	<b>Advertiser</b>	<b>Mars Confectionery</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>25/03/2015</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.1 - Discrimination or Vilification Sexual preference
- 2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

Two couples are watching TV and the girls are sharing some Maltesers as both boyfriends have fallen asleep. The girls place the guys in an embrace on the lounge as they remain asleep and the girls sit on the floor. The two men snuggle into each other and one man kisses the other man without either of them waking up fully.

### THE COMPLAINT

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

*I find it very offensive that while I'm watching tv with my child that an ad with a man kiss another man to come on to try and sell chocolates just like smoking and drinking alcohol leads to young people to do these things I feel strong that advertising homosexuals is try to turn young people gay.*

*The two women place their boyfriends in a sexual/suggestive position while they are asleep. They are seen to kiss. The two women then laugh at what they have done. This ad is offensive because it continues to perpetuate the idea that being gay or male closeness is something to be ridiculed and laughed at.*

### THE ADVERTISER'S RESPONSE

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

*The Complaint States:*

*“DESCRIPTION: The advertisement for Maltesers has two women eating Maltesers and then putting their sleeping boyfriends in a sexual/suggestive position and then laughing at them.*

*REASON FOR CONCERN: The two women place their boyfriends in a sexual/suggestive position while they are asleep. They are seen to kiss. The two women then laugh at what they have done. This ad is offensive because it continues to perpetuate the idea that being gay or male closeness is something to be ridiculed and laughed at.”*

*We address our response as foreshadowed in your letter to all parts of Section 2 of the AANA Code of Ethics as follows:*

*Section 2.1 – discrimination or vilification*

*The advertisement was created to depict a range of people acting in a playful, innocent manner as they consume Maltesers. The advertisement does 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 preference, religion, disability, mental illness or political belief.*

*The intention of this particular advertisement was to showcase a playful moment between two girl friends who play an innocent joke on their boyfriends who have fallen asleep on the couch whilst watching a movie by positioning them to hug one another, knowing that each boyfriend would mistakenly assume they were hugging their girlfriend. The way they position their respective boyfriend is in no way sexually suggestive and in fact is something that would be acceptable to do in public without causing offence.*

*We do not believe that it is appropriate to draw the inference that by positioning the boyfriends to hug one another and kiss on the nose to infer that they are gay or of any kind of sexual orientation. We also believe that the girlfriends laughing at their boyfriends hugging and kissing on the nose does not indicate that they are ridiculing or humiliating them for been ‘unknowingly gay’ or that male closeness is something to be laughed at. The context in which the girlfriends find it funny is that their boyfriends have mistakenly identified the other boyfriend to be their girlfriend!*

*We also note that the AANA Practice Note provides that humour can be used without creating a negative stereotype.*

*On the question of whether the advertisement discriminates and vilifies male closeness or gay people, the advertisement does form part of a broader campaign for the product in which a variety of people act in a light hearted, playful way as they consume Maltesers. We submit*

*that almost all viewers would view the content in this context, and would realise that it was not aimed at the discrimination or vilification or is otherwise derogatory towards gay people or male closeness. Anything to the contrary would be casting a different light to what we intended to portray through the airing of this advertisement.*

#### *Section 2.2 – Exploitative & Degrading*

*As foreshadowed above the advertisement does not employ sexual appeal in a manner, which is exploitative and degrading of any individual or group of people.*

#### *Section 2.3 - Violence*

*The advertisement does not present or portray violence of any kind.*

#### *Section 2.4 – Sex, Sexuality & Nudity*

*As the classification for the advertisement demonstrates, it is appropriate for the audience and treats sex, sexuality and nudity with sensitivity to the relevant audience. We submit that our advertising agency and our media buyers and planners have taken care to ensure that the scheduling of our commercials complies with the provisions of the Code.*

#### *Section 2.5 - Language*

*There is no inappropriate or obscene language in the advertisement.*

#### *Section 2.6 – Health & Safety*

*No element of the advertisement is contrary to Prevailing Community Standards on health and safety.*

### **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 complainants’ concern that the advertisement raises issue regarding homosexuality that are inappropriate for viewing particularly for children.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that '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 preference, religion, disability, mental illness or political belief.'

The Board noted the advertisement features two couples are watching TV and the girls are sharing some Maltesers as both boyfriends have fallen asleep. The girls place the guys in an

embrace on the lounge as they remain asleep and the girls sit on the floor. The two men snuggle into each other and one man kisses the other man without either of them waking up fully. The voice over says “Maltesers, the lighter way to enjoy chocolate.”

The Board noted one of the complainant’s concerns that the depiction of the two men in this way is an attempt to turn young people gay.

The Board noted that the advertisement is intended to be a humorous and is a lighthearted practical joke carried out by the girlfriends of the two men. The Board noted that the concern raised by the complainant that the depiction would encourage young people to turn gay is an unlikely interpretation and one that is not likely to be shared by the broader community.

The board noted the other complaint that raises the issue that the depiction is perpetuating the idea that being gay or that male closeness is something to be ridiculed.

The Board noted that the practical joke is carried out by the women because they are aware that the men are asleep and not interested in what they are watching and the girls are enjoying the maltesers on their own.

The Board agreed that there was no suggestion that the group consider homosexuality as something to be ridiculed but rather the women were playing a joke on their partners due to their sleepy state. The Board considered that the joke was not a derogatory sentiment toward homosexual men and did not depict material which discriminates against or vilifies a person on account of sexual preference.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

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