



Case Report

1	Case Number	0241/12
2	Advertiser	Hungry Jacks
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	27/06/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Lifestyle Choices

DESCRIPTION OF THE ADVERTISEMENT

An alternatively styled girl with piercings and tattoos gradually loses her piercing and tattoos as she eats a Hungry Jack's Chicken TenderGrill burger. By the time she has finished eating her clothes have also changed to a floral dress and both the girl and her band mates look horrified by the transformation. A female voiceover says, "There is nothing naughty about the new Hungry Jack's TenderGrill...Hungry Jack's makes it better."

THE COMPLAINT

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

I am disgusted and outraged that they try to push the opinion that an alternative style is a negative thing.

It is biased judgmental and bigoted. They have no right to say who is a better person by the way they style themselves.

I don't know why Hungry Jacks a fast food restaurant would want to condone discrimination and look down on creatively styled people.

Why would Hungry Jacks not want the business of an alternative youth as much as the average person?

This has upset and offended many people including myself both alternative and mainstream who don't understand why dressing differently these days has such a negative connotation.

The ad discriminates against alternative culture individuals vilifying them as 'naughty' and somehow worthy of redemption via consumption of the product.

It is offensive to portray a group that dresses a certain way or has defined and recognisable individual characteristics in a negative light through juxtaposition or any other means.

If the advertisement was re-shot in a racial framework and showed a person of any other racial background morphing into a Caucasian white-collar professional it would never have been allowed to air. The only way that this possibly could have gone worse was if the initial image was of a sex worker.

Permitting this variety of negative reinforcement is what helps to marginalise members of the community based on their appearance and manufactures or increases the gulf in an "us vs. them" mentality.

It's a juvenile base and mediocre attempt at selling fast food. Please take it off my screens. Incidentally I'm a Caucasian middle-class professional woman. There is nothing wrong with that. There's also nothing wrong with my piercings or tattoos and any suggestion to the contrary is insulting.

The entire ad is offensive to those that are part of an alternative subculture.

The hook line in particular "makes it better" leads me and I believe many others to think that there is something inherently 'wrong' or 'naughty' about being an alternative person.

Whether alternative refers to the way you dress or the way you think implying that anyone is not good enough or can be improved upon is deeply offensive to myself and my partner.

Showing the female character change from a beautiful pierced and tattooed young woman into a beautiful plain young woman in line with the advertisements content directly implies that one depiction of a woman is better than another.

I find this wrong and offensive and urge Hungry Jacks to make a public apology to the many alternative men and women they have publicly implied need improving.

THE ADVERTISER'S RESPONSE

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

Hungry Jack's (Hungry Jack's®) writes in response to the above complaint, which was referred to us on 5 June 2012.

The complaint relates to a television commercial promoting the Chicken TenderGrill® burger (TVC). The complainant describes the TVC in the following terms:

'A television ad showing a young, beautiful alternatively styled girl turning into a normal, plain girl as she eats one of Hungry Jack's® burgers with the slogan 'Nothing naughty' and 'Makes it better'.'

The complainant describes the cause for concern as:

'I am disgusted and outraged that they try to push the opinion that an alternative style is a negative thing. It is biased, judgmental and bigoted. They have no right to say who is a better person by the way they style themselves. I don't know why Hungry Jacks®, a fast food restaurant would want to condone discrimination and look down on creatively styled people. Why would Hungry Jacks not want the business of an alternative youth as much as the average person? This has upset and offended many people, including myself, both alternative

and mainstream, who don't understand why dressing differently these days has such a negative connotation.'

The complaint is said to raise issues under section 2.1 of the Australian Association National Advertisers Code of Ethics (AANA Code) which provides as follows:

'Advertising or Marketing Communications 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 preference, religion, disability, mental illness or political belief.'

response to the complaint

General Observations

The TVC centres on and promotes the fact that the Hungry Jack's® Chicken TenderGrill® burger is a healthier, less "naughty" alternative to regular fast food. The general theme of the TVC is focused on this idea.

The TVC intends to portray to its audience a burger that is good for you, and therefore goes against the grain of fast food that is generally perceived to be bad for you. The TVC plays on the idea that unhealthy food is "naughty" food, while healthy food, and the TenderGrill® in particular, is "good" food. To help the audience visualise this, the alternatively styled characters are used to represent rebelliousness and something away from the mainstream. In sharp contrast to these characters is the burger which is not rebellious or naughty at all but perfectly good and healthy with its flame grilled chicken breast and low-fat mayonnaise.

The TVC depicts an alternative girl with tattoos and piercings devouring an obviously delicious TenderGrill® burger and turning into a more conventional looking girl in the process. However, contrary to what appears to be the thrust of the complaint, far from suggesting that the burger somehow makes the alternative girl "better" by turning her into a "good" girl, the TVC shows that the alternative look is much preferred by the girl and her companions. Upon seeing her new look, the girl and her band-mate scream in horror.

Evidently they do not approve of her flowing locks and floral sundress.

The contrast between this colourful and creative musician and the girl she turns into is not intended to denigrate the former way of life and dress, not in our view does it do so. In fact, and the complainant appears to agree, the latter is "plain" in comparison, which might even suggest that the alternative style is more exciting than the mainstream.

The contrast depicted in the TVC is little more than a narrative tool to show that the burger is not "naughty". The slogan "makes it better" applies to the Hungry Jack's® brand as a whole, implying that the burgers are made better at Hungry Jack's than at its counterparts. It is not directed to the character in the TVC.

On any fair view of the TVC, no-one would understand it to seriously suggest that the consumption of a Hungry Jack's® TenderGrill®, burger would result in any physical changes to the person consuming it, nor that one look or style ought to be preferred over any other. It is in our view therefore a gross exaggeration of what is in fact depicted to suggest that the TVC purports to claim that "mainstream" people are better than "alternative" people. We also note that it is the complainant that has sought to classify people as either "mainstream" or "alternative".

In short, it is our view that this obviously humorous TVC does not portray what ordinary members of the community would regard as 'discrimination' or 'vilification' at all. The portrayal of a contrast between "naughty" and "nice" has been misinterpreted by the complainant as a negative portrayal of the alternative style. The TVC does not offend the prevailing community standard as to discrimination and vilification of people and groups.

Section 2.1 application of the AANA Code

For all the above reasons, Hungry Jack's® and Clemenger BBDO submit that the TVC does not portray people or depict material in a way which discriminates against or vilifies a

person or section of the community at all. In any event, it could not be said that any discrimination or vilification is portrayed in respect of "race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief", being the requirements under section 2.1 of the AANA Code. Therefore, the TVC is not in breach of section 2.1 of the AANA Code.

For the sake of completeness, Hungry Jack's® and Clemenger BBDO submit that: the TVC also otherwise complies with all aspects of the AANA Code; no issue arises under the AANA Food and Beverages Code (Food Code); and the TVC is not directed primarily to children and therefore the AQSRII Code does not apply to the TVC; and the TVC is in accordance with prevailing community standards.

Summary

In producing the TVC Hungry Jack's® and its agency, Clemenger BBDO, have taken every care to ensure that it complies strictly with the AANA and the Food Codes.

We ensure that all of our advertisements are respectful to the community and the people in them, particularly given that they are ultimately our customers.

There is no breach of the AANA or Food Codes and we request that the complaint be dismissed.

Please let us know if you require anything further.

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' concerns that the advertisement is discriminatory towards people who choose an alternative lifestyle and suggests women need to look a particular way in order to be acceptable to society.

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 that the advertisement features a tattooed young woman with piercings who is part of a heavy metal sounding band. She gradually loses her tattoos, piercings and alternative clothing as she eats a Hungry Jack's burger. The final image is of a young woman wearing a pretty floral dress with plain long hair and no make-up and when she is revealed to be completely changed the girl, and her bandmate, react negatively at her new appearance.

The Board considered that the advertisement is presenting two stereotype of young women (a stereotypical alternative heavy metal band bad girl and a stereotypical modest good girl). The Board considered that the clear message of the advertisement is to say that the advertised

product is nothing naughty and it uses the juxtaposition of the 'bad' girl and the 'good' girl to make a humorous analogy.

The Board considered that the advertisement does present two stereotypes but considered that the interpretation likely to be taken by the community is clearly a message about the product and is not a negative portrayal of either type of young woman.

Based on the above the Board determined that the advertisement did not depict material that discriminated against or vilified any person or section of society.

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 complaint.